

Agency Proposed Budget

The following table summarizes the total executive budget proposal for the agency by year, type of expenditure, and source of funding.

Agency Proposed Budget								
Budget Item	Base Budget Fiscal 2004	PL Base Adjustment Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	PL Base Adjustment Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Exec. Budget Fiscal 06-07
FTE	486.24	3.00	1.00	490.24	3.00	1.00	490.24	490.24
Personal Services	21,536,866	2,210,424	34,129	23,781,419	2,247,897	34,099	23,818,862	47,600,281
Operating Expenses	9,814,332	1,475,683	827,036	12,117,051	550,299	701,736	11,066,367	23,183,418
Equipment	667,807	56,193	36,695	760,695	41,693	0	709,500	1,470,195
Capital Outlay	75	0	0	75	0	0	75	150
Local Assistance	213,373	50,000	250,000	513,373	0	250,000	463,373	976,746
Grants	961,865	45,431	0	1,007,296	0	0	961,865	1,969,161
Benefits & Claims	1,000,000	3,500,000	0	4,500,000	3,500,000	0	4,500,000	9,000,000
Transfers	398,339	353,117	0	751,456	154,762	0	553,101	1,304,557
Debt Service	487,112	80,702	0	567,814	80,702	0	567,814	1,135,628
Total Costs	\$35,079,769	\$7,771,550	\$1,147,860	\$43,999,179	\$6,575,353	\$985,835	\$42,640,957	\$86,640,136
General Fund	16,825,529	4,740,234	21,108	21,586,871	4,483,187	21,108	21,329,824	42,916,695
State/Other Special	16,489,400	2,810,657	1,124,289	20,424,346	1,857,561	962,264	19,309,225	39,733,571
Federal Special	1,764,840	220,659	2,463	1,987,962	234,605	2,463	2,001,908	3,989,870
Total Funds	\$35,079,769	\$7,771,550	\$1,147,860	\$43,999,179	\$6,575,353	\$985,835	\$42,640,957	\$86,640,136

Agency Description

The Department of Natural Resources is tasked to:

- 1) Manage the state trust land resource to produce revenues for the trust beneficiaries while considering environmental factors and protecting the future income-generating capacity of the land
- 2) Protect Montana's natural resources from wildfires through regulation and partnerships with federal, state, and local agencies
- 3) Promote stewardship of state water, soil, forest, and rangeland resources, and regulate forest practices to protect water quality
- 4) Provide administrative, legal, and technical assistance and financial grants to the conservation districts and provide natural resource conservation and development programs
- 5) Resolve water resource use conflicts, manage state water projects, investigate water use violations, ensure dam safety compliance, and provide water adjudication support to the Water Court
- 6) Provide administrative support to the Reserved Water Rights Compact Commission to negotiate the settlement of reserved water rights claims of Indian Tribes and federal agencies
- 7) Provide administrative support to the Board of Oil and Gas Conservation to assist in conservation of oil and gas and prevention of resource waste through regulation of oil and gas exploration and production

The State Board of Land Commissioners, comprised of the Governor, State Auditor, Attorney General, Superintendent of Public Instruction, and Secretary of State, exercise the general authority, direction, and control over the care, management, and disposition of state lands under its administration. The department director is the chief administrative officer of the board.

Agency Highlights

Department of Natural Resources and Conservation Major Budget Highlights	
<ul style="list-style-type: none"> The executive is requesting present law adjustments totaling \$14.4 million over the biennium <ul style="list-style-type: none"> The largest request seeks \$9 million to pay off the Crow Tribe settlement The oil and gas program is seeking to expand biennium funding by \$1.8 million Requests for state owned dam rehabilitation or pre-construction total \$743,000 over the biennium State wide present law adjustments contribute significantly to the budget increase There is no supplemental appropriation request for fire fighting costs this biennium 	
Major LFD Issues	
<ul style="list-style-type: none"> Constitutionality of the methodology for funding trust land management has been questioned Water adjudication legislation could have a major impact on the department's budget Resource Indemnity Trust (RIT) accounts are projected to have declining balances 	

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Total Agency Funding 2007 Biennium Executive Budget					
Agency Program	General Fund	State Spec.	Fed Spec.	Grand Total	Total %
21 Centralized Services	\$ 3,800,567	\$ 875,526	\$ 163,888	\$ 4,839,981	6%
22 Oil & Gas Conservation Div.	-	4,113,786	-	4,113,786	5%
23 Conservation/Resource Dev Div	11,544,646	4,994,148	543,676	17,082,470	20%
24 Water Resources Division	12,380,658	4,181,154	185,879	16,747,691	19%
25 Reserved Water Rights Comp Com	1,381,758	-	-	1,381,758	2%
35 Forestry/Trust Lands	13,809,066	25,568,957	3,096,427	42,474,450	49%
Grand Total	<u>\$ 42,916,695</u>	<u>\$ 39,733,571</u>	<u>\$ 3,989,870</u>	<u>\$ 86,640,136</u>	<u>100%</u>

The division is funded with 49.5 percent general funds, 45.9 percent state special revenue, and 4.6 percent federal funds. The agency receives funds from interest derived from the resource indemnity trust for projects and operational support. The grant and loan programs funded by the RIT interest are also managed by the agency. Other state special revenue is derived from fire protection taxes, oil and gas operating fees, forest improvement fees, and revenues retained from state land activities for administration costs. Federal funds come from a variety of sources such as the Federal Emergency Management Agency, the United States Department of Agriculture, and the Bureau of Land Management.

Agency Narrative

2005 Biennium Fire Cost Summary

The department is responsible for fire suppression, including the financial aspects of assuring costs are covered through appropriate resources. Financial results for FY 2004 fire costs and an estimation for FY 2005 are included to provide an overview of the varying costs and available resources for funding fire suppression.

Fiscal 2004

Part 1 of Figure 1 represents the total estimated cost for FY 2004 to the Department of Natural Resources and Conservation (DNRC) and the Department of Military Affairs (DMA) for fire suppression efforts, including the estimated bill from the US Forest Service for assistance in fighting Montana fires. As of October 2004, the state has paid \$43.7 million to cover actual state protection costs and anticipates \$32.7 million representing the US Forest Service bill (\$31.3 million) and the California Department of Forestry bill (\$1.4 million). After these factors, the total cost of fire suppression in FY 2004 is approximately \$79.6 million.

Figure 1	
Fiscal 2004 Estimated Fire Costs *	
Part 1:	
<u>FY 2004 Actual & Estimated Fire Costs</u>	
Actual State Protection Costs as of September 21, 2004	\$46,900,292
DNRC -- \$43.8 million	
DMA -- \$3.1 million	
Estimated Remaining State Protection Costs	\$32,715,241
U.S. Forest Service -- \$31.3 million **	
California Department of Forestry -- \$1.4 million	
Paid & Anticipated Obligations	\$79,615,533
Part: 2	
<u>Remaining Fire Cost to the State of Montana</u>	
Paid & Anticipated Obligations	\$79,615,533
FEMA Reimbursement ***	(\$32,336,975)
Received by DNRC -- \$12.5 million	
Received by DMA -- \$222,890	
Estimated Remaining Payment -- \$19,794,861	
Other Reimbursements - Received	(\$12,041,382)
U.S. Forest Service Reimbursement -- \$11.5 million	
DNRC Forestry Budget -- \$37,911	
BLM Reimbursement (DNRC)-- \$469,960	
BLM Reimbursement (DMA) - \$ 5,764	
National Park Service -- \$8,059	
Other Reimbursements - Anticipated	(\$1,810,747)
US Forest Service (DMA) - \$1.8 million	
Total Payments by Other Entities	(46,189,104)
Preliminary Net Cost to the State	\$33,426,429
* NOTE: All cost information is based upon the best available estimates at the time of completion and is subject to adjustment. Cost share fires are constantly in negotiation until final settlement.	
** The first payment of \$3.6 million to the US Forest Service has been made. A second payment of \$2.7 million is soon to be released.	
*** FEMA reimbursements fluctuate because some costs are outside of the declaration period and/or are not eligible for reimbursement.	

Part 2 of Figure 1 defines the net cost of fire suppression incurred by DNRC and DMA after all reimbursements. Several fires qualified for Federal Emergency Management Agency (FEMA) reimbursement. The state has received \$12.5 million and is estimating additional grant awards of \$19.8 million, for a total of \$32.3 million.

Montana firefighters assist other agencies with fire suppression, including the US Forest Service, the Bureau of Land Management, and the National Park Service. Costs associated with this assistance are reimbursed by the responsible agency to the state, and total \$12.0 million. An additional \$1.8 million of US Forest Service assistance is due to DMA.

When all assistance is accounted for, total assistance received from other entities is \$46.2 million. The net cost to the state for fire suppression in FY 2004 is \$33.4 million. The Office of Budget and Program Planning (OBPP) processed documents from DNRC and DMA to utilize Federal Jobs and Growth Tax Relief Reconciliation Act (JGTRRA) monies for the entire net cost of fire suppression.

Fiscal 2005 Estimate

Part 1 of Figure 2 represents the total estimated cost for fiscal 2005 to the DNRC and DMA. To date, \$1.1 million has been paid out, an additional \$1.4 million is anticipated for incurred costs, and \$0.5 million has been estimated for spring 2005 fires. Thus, the total estimated fire cost for fiscal 2005 is \$3.1 million.

Figure 2	
Fiscal 2005 Estimated Fire Costs *	
Part: 1	
<u>FY 2005 Aactual & Estimated Fire Costs</u>	
Actual State Protection Costs as of September 21, 2004	\$1,134,007
DMA Costs	32,417
DNRC Budgeted Cost	-\$50,000
Estimated Remaining State Protection Costs	\$1,488,608
Estimated Spring 2005 Fire Costs	500,000
Paid & Anticipated Obligations	<u>\$3,105,032</u>
Part: 2	
<u>Remaining Fire Costs to the State of Montana</u>	
Paid & Anticipated Obligations	\$3,105,032
Other Reimbursements - Received	\$0
Other Reimbursements - Anticipated - US Forest Service/BLM	(\$819,677)
Total Payments by Other Entities	<u>(819,677)</u>
<u>FY 2005 Preliminary Net Cost to the State</u>	<u>\$2,285,355</u>
FY 2004 Net Cost to the State	\$33,426,430
<u>Total 2005 Biennium Costs</u>	<u>\$35,711,785</u>
* NOTE: All cost information is based upon the best available estimates at the time of completion and is subject to adjustment. Cost share fires are constantly in negotiation until final settlement.	

Part 2 of Figure 2 defines the net cost of fire suppression incurred by DNRC. The department is estimating the receipt of federal reimbursement of \$819,677 from the Forest Service and the Bureau of Land Management. No FEMA reimbursement is anticipated as no single fire or complex qualified for FEMA assistance. This reimbursement is for cost share fires and support provided to another agency. After this reimbursement is considered, the anticipated net fire suppression costs for fiscal 2005 is \$2.3 million. Again, the Office of Budget and Program Planning (OBPP) processed documents from DNRC to utilize Federal Jobs and Growth Tax Relief Reconciliation Act (JGTRRA) monies for the entire estimated net cost of FY 2005 fire suppression.

Total cost for the 2005 biennium is estimated at \$ 35.5 million, all of which (with the exception of a small amount of costs budgeted for fires within DNRC) was covered with federal JGTRRA monies. Because this funding was available, DNRC is not seeking a supplemental appropriation at this time for fiscal 2005 in the 2007 legislative session.

Biennium Budget Comparison

The following table compares the executive budget request in the 2007 biennium with the 2005 biennium by type of expenditure and source of funding. The 2005 biennium consists of actual FY 2004 expenditures and FY 2005 appropriations.

Biennium Budget Comparison								
Budget Item	Present Law Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	Present Law Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Biennium Fiscal 04-05	Total Exec. Budget Fiscal 06-07
FTE	489.24	1.00	490.24	489.24	1.00	490.24	486.24	490.24
Personal Services	23,747,290	34,129	23,781,419	23,784,763	34,099	23,818,862	42,754,230	47,600,281
Operating Expenses	11,290,015	827,036	12,117,051	10,364,631	701,736	11,066,367	21,684,258	23,183,418
Equipment	724,000	36,695	760,695	709,500	0	709,500	1,504,523	1,470,195
Capital Outlay	75	0	75	75	0	75	554	150
Local Assistance	263,373	250,000	513,373	213,373	250,000	463,373	426,746	976,746
Grants	1,007,296	0	1,007,296	961,865	0	961,865	1,853,960	1,969,161
Benefits & Claims	4,500,000	0	4,500,000	4,500,000	0	4,500,000	2,000,000	9,000,000
Transfers	751,456	0	751,456	553,101	0	553,101	790,052	1,304,557
Debt Service	567,814	0	567,814	567,814	0	567,814	1,066,960	1,135,628
Total Costs	\$42,851,319	\$1,147,860	\$43,999,179	\$41,655,122	\$985,835	\$42,640,957	\$72,081,283	\$86,640,136
General Fund	21,565,763	21,108	21,586,871	21,308,716	21,108	21,329,824	34,320,252	42,916,695
State/Other Special	19,300,057	1,124,289	20,424,346	18,346,961	962,264	19,309,225	34,133,161	39,733,571
Federal Special	1,985,499	2,463	1,987,962	1,999,445	2,463	2,001,908	3,627,870	3,989,870
Total Funds	\$42,851,319	\$1,147,860	\$43,999,179	\$41,655,122	\$985,835	\$42,640,957	\$72,081,283	\$86,640,136

New Proposals

The "New Proposal" table summarizes all new proposals requested by the executive. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals										
Program	-----Fiscal 2006-----					-----Fiscal 2007-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 2201 - Public Access Data System-OTO										
22	1.00	0	209,129	0	209,129	1.00	0	209,099	0	209,099
DP 2203 - O&G Energy Education and Outreach-Biennial										
22	0.00	0	125,000	0	125,000	0.00	0	0	0	0
DP 2204 - O&G North American Prospect Exposition-Biennial										
22	0.00	0	15,000	0	15,000	0.00	0	0	0	0
DP 2205 - Coal Bed Natural Gas Baseline Studies										
22	0.00	0	300,000	0	300,000	0.00	0	300,000	0	300,000
DP 2304 - MT Drinking Water Loan Program										
23	0.00	0	250,000	0	250,000	0.00	0	250,000	0	250,000
DP 2305 - Musselshell Valley Regional Water Project										
23	0.00	0	105,000	0	105,000	0.00	0	102,000	0	102,000
DP 2306 - Move Funding Between State Special Revenue Funds										
23	0.00	0	0	0	0	0.00	0	0	0	0
DP 2408 - Water Right Records Optical Imaging-OTO										
24	0.00	0	108,551	0	108,551	0.00	0	89,556	0	89,556
DP 3504 - Interagency Fire Support										
35	0.00	21,108	11,609	2,463	35,180	0.00	21,108	11,609	2,463	35,180
Total	1.00	\$21,108	\$1,124,289	\$2,463	\$1,147,860	1.00	\$21,108	\$962,264	\$2,463	\$985,835

Agency Issues*Resource Indemnity Trust (RIT)*

Article IX of the Montana Constitution provides for the protection and improvement of the Montana environment and requests the legislature to provide adequate remedies for environmental protection from degradation. The Constitution specifically requires "all lands disturbed by the taking of natural resources shall be reclaimed", and requires the existence of a resource indemnity trust (RIT) fund for that purpose, to be funded by taxes on the extraction of natural resources.

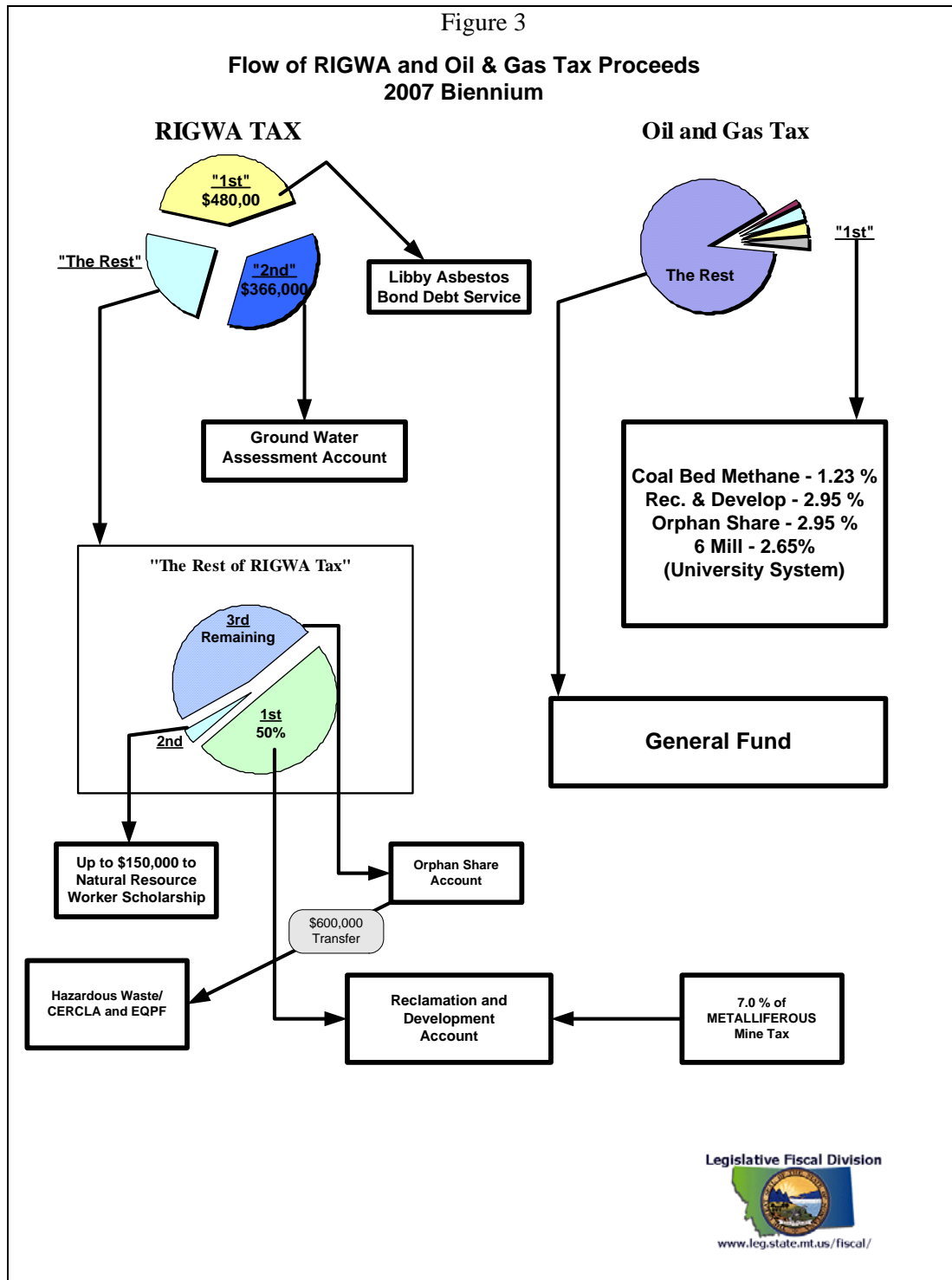
The Constitution further states, “The principal of the resource indemnity trust shall forever remain inviolate in an amount of one hundred million dollars (\$100,000,000) guaranteed by the state against loss or diversion.”

The state constitution requires a trust, but does not require the trust to be funded. The legislature utilized certain natural resource extraction tax proceeds as a revenue source for the trust. In February of 2002, the Governor certified the balance of the trust had exceeded the \$100 million threshold. Consequently, the trust no longer receives revenue and those tax proceeds previously directed to the RIT were re-directed by the 2003 legislature.

Proceeds and Interest

Direct Tax Proceeds

The legislature provides for statutory allocation of the resource indemnity and ground water assessment (RIGWA) tax, a portion of the metalliferous mine tax, and applicable portions of the oil and gas tax that originally funded the RIT. The RIGWA and the application portion of the oil and gas tax are now distributed to a number of natural resource accounts. Figure 3 illustrates the flow of these taxes.



Resource Indemnity Ground Water Assessment

The state imposes taxes on person(s) who engage in or carry on the business of mining, extracting, or producing a mineral from any quartz vein or lode, placer claim, dump or tailings, or other place or source. From the proceeds, the first \$480,000 is deposited into the Libby Asbestos Bond Debt Service account, the second \$366,000 is deposited into the ground water assessment account. The remaining funds are distributed as follows: 50 percent into the reclamation and development grant program account, up to \$150,000 into the natural resources worker scholarship fund, and any remaining funds to the orphan share account. 15-38-116, MCA directs the deposit of the tax.

Applicable portions of oil and gas taxes

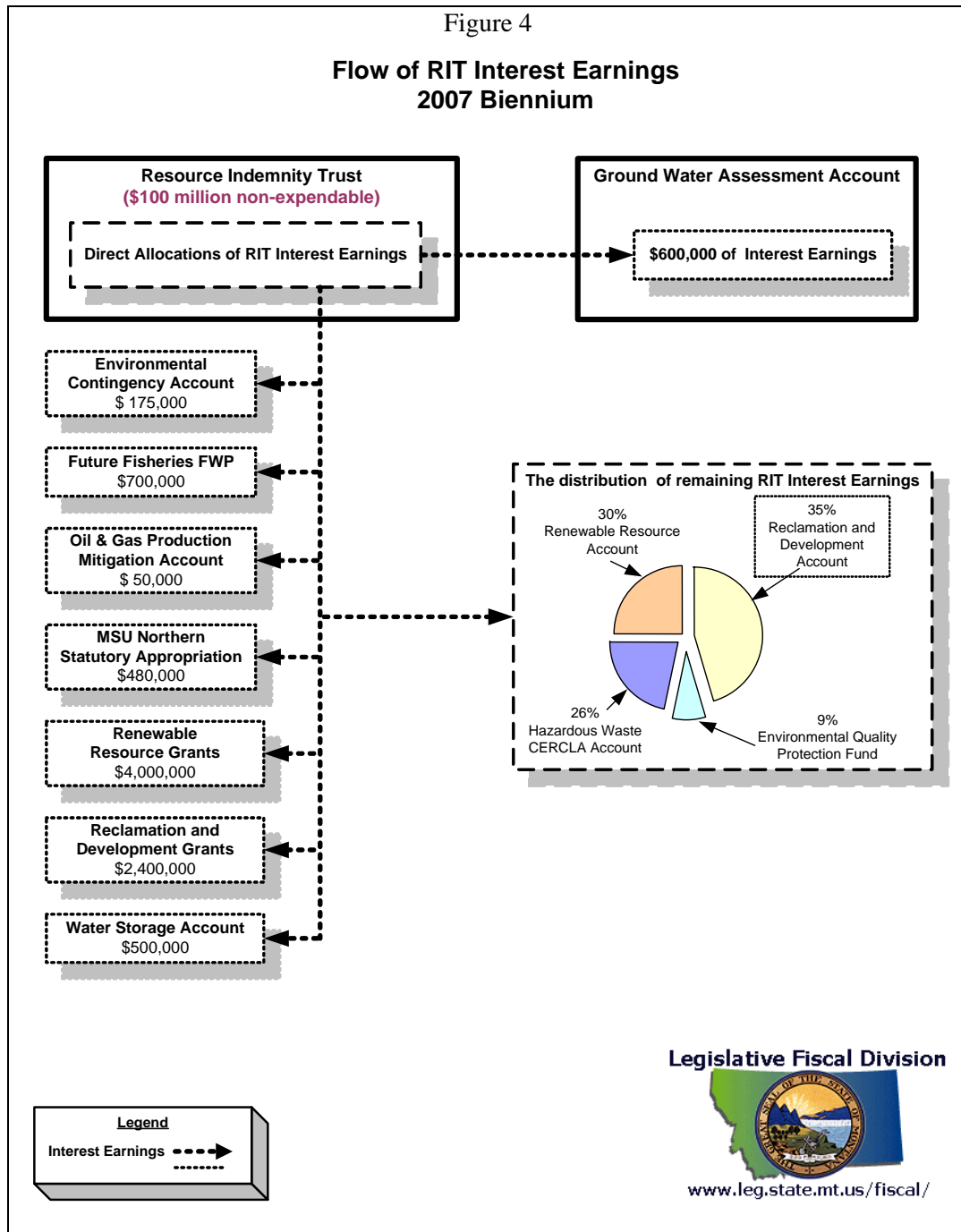
The state imposes taxes on the production of oil and natural gas. The disbursements are made as follows: 1.23 percent to the coal bed methane protection account, 2.95 percent to the reclamation and development grant program account, 2.95 percent to the orphan share account, and 2.65 percent to the 6- mill account for the university system. The remaining balance or 90.22 percent is transferred to the general fund. Figure 1 has an illustration.

Metaliferous Mine License Tax

The state imposes a license tax on person(s) engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead, or any other metal or metals or precious or semiprecious gems or stones are produced. Prior to RIT meeting the threshold, 7 percent of the tax was deposited to the RIT. This deposit is now made to the reclamation and development account.

RIT Distributions –Interest Allocations

Allocations of RIT interest earnings are not restricted by the Constitution. The legislature has chosen to directly and indirectly allocate interest for a number of purposes. Figure 4 illustrates the allocation of RIT interest.



Direct Allocations: 15-38-202 MCA directs where the interest from the RIT is allocated. Direct allocations are made to a number of sources. Table 4 represents the allocations of RIT interest earnings for the 2007 biennium. Allocations to the environmental contingency account, oil & gas production mitigation account, and the water storage account are made at the beginning of the biennium. The other allocations are made at the beginning of each fiscal year. The figure below represents the total of both years.

Indirect Allocations: After direct interest allocations are made, 15-38-202 directs the remaining interest on a formula basis. In FY 2007 the formula provides 50 percent to the renewable resources grant and loan account, 35 percent to the reclamation and development grant program account, 22 percent to the hazardous waste/CERCLA account, and 7.9 percent to the environmental quality protection fund.

Accounts of Importance

RIT interest allocations, RIGWA allocations, applicable portions of the oil and gas taxes, and 7 percent of the metaliferous mine tax are directed toward a variety of natural resource accounts. From those accounts appropriations are made by the legislature to support natural resource agencies and activities. The accounts of importance are as follows:

- Renewable Resource Grant and Loan Program – provides grants and loans to enhance Montana’s renewable resources through projects that measurably conserve, develop, manage or preserve resources
- Reclamation and Development Grant Program – provides grants to repair, reclaim, and mitigate environmental damage to public resources from non-renewable resource extraction
- Hazardous Waste/CERCLA – provides funds for the implementation of the Montana Hazardous Waste Act and state expenses for overseeing the federal Comprehensive Environmental Response, Compensation and Liability Act
- Environmental Quality Protection Fund – utilized to identify, investigate, negotiate and prosecute individuals/entities to achieve remedial action or recover costs and damages
- Environmental Contingency Account- an account controlled by the Governor for the purpose of responding to emergent or imminent threats to the environment
- Ground water assessment account – provides funds for groundwater monitoring and characterization studies.
- Water Storage Account – used for grants and loans to fund water storage projects
- Orphan Share Account-used to fund the percent of remediation activities at a contaminated site that are attributable to a bankrupt or otherwise insolvent entity

Accounts and Related Actual, Budgeted and Proposed Expenditures

Figure 5 represents the four elements of the Resource Indemnity Trust and related taxes as defined by current statute. Each element has been shown to provide a breakdown of interest earnings and allocations.

Resource Indemnity Trust (RIT)

Section one shows the RIT estimated revenues and balances as provided by the Revenue and Transportation Interim Committee (RTIC) revenue projections for FY 2005, FY 2006, and FY 2007. As of fiscal year end 2004, the RIT trust had a balance of \$100,002,390. The projected ending balance for FY 2005 is estimated at \$100,254,844. This is the result of a \$252,454 transfer from the groundwater assessment fund because the fund had exceeded the statutory limit.

LFD COMMENT

Since the RIT balance is in excess of the constitutionally required \$100 million, excess trust balance is available for appropriation.

Figure 5

Resource Indemnity Trust (RIT): Interest Earnings, and Related Expenditure Accounts
2007 Biennium Projections (Including Executive Proposals and Appropriation Requests)

1

RIT Revenues (RATC estimates)	<u>Fiscal 2004</u>	<u>Fiscal 2005</u>	<u>Fiscal 2006</u>	<u>Fiscal 2007</u>
Projected Beginning Balance FY 2003		\$100,002,390	<u>\$100,254,844</u>	\$100,254,844
Fund Balance Allocations/transfers				
Transfer from Groundwater Assessment (02289)		\$252,454		
Total Deposits/Legislative Changes		\$252,454		
RIT Trust Balance	<u>\$100,002,390</u>	<u>\$100,254,844</u>	<u>\$100,254,844</u>	<u>\$100,254,844</u>

2

	<u>Fiscal 2005</u>	<u>Fiscal 2006</u>	<u>Fiscal 2007</u>	<u>Biennium Total</u>
RIGWA Tax	\$1,229,000	\$1,176,000	\$1,323,000	\$2,499,000
Statutory Allocations -- RIGWA				
CERCLA Bonds Debt Service	\$0	\$160,000	\$320,000	480,000
Groundwater Assessment Account-direct (02289)	113,546	366,000	366,000	732,000
Reclamation & Development-50% of Remainder (02458)	431,500	318,000	312,000	630,000
Natural Resource Worker Scholarship * (2069)	93,508	13,508	13,508	27,016
Orphan Share Account- Remainder of RIGWA (02472)	<u>337,992</u>	<u>318,492</u>	<u>311,492</u>	<u>629,984</u>
TOTAL RIGWA STATUTORY ALLOCATIONS	\$1,229,000	1,176,000	1,323,000	2,499,000
Applicable Oil and GasTax	\$4,600,384	\$4,623,434	\$4,667,950	\$9,291,384
Applicable Portion of Oil and Gas				
Coal Bed Methane Protection - (02694) 1.23%	793,616	797,592	805,210	1,602,802
Reclamation & Development-(02458) 2.95%	1,903,384	1,912,921	1,931,190	3,844,111
Orphan Share Account - (02472) 2.95%	1,903,384	1,912,921	1,931,190	3,844,111
TOTAL Oil and Gas STATUTORY ALLOCATIONS	<u>4,600,384</u>	<u>4,623,434</u>	<u>4,667,590</u>	<u>9,291,024</u>

3

	<u>Fiscal 2005</u>	<u>Fiscal 2006</u>	<u>Fiscal 2007</u>	<u>Biennium Total</u>
RIT Interest Earnings (RATC estimates)	\$7,401,000	\$7,417,000	\$7,420,000	\$14,837,000
Priority Statutory Allocations of Interest				
Environmental Contingency Account (02107)**	0	(175,000)	0	(175,000)
Oil & Gas Prod. Damage Mitigation Account (02010)***	0	(50,000)	0	(50,000)
Water Storage Account (02216)	0	(500,000)	0	(500,000)
Groundwater Assessment Account-direct (02289) *****	(300,000)	(300,000)	(300,000)	(600,000)
MSU-Northern Statutory Appropriation (02272)	(240,000)	(240,000)	(240,000)	(480,000)
Fish, Wildlife, and Parks -- Future Fisheries (02022)	(350,000)	(500,000)	(500,000)	(1,000,000)
Renewable Resource Grant & Loan Program (02272)	(2,000,000)	(2,000,000)	(2,000,000)	(4,000,000)
Reclamation & Development Grants (grants) (02458)	<u>(1,200,000)</u>	<u>(1,500,000)</u>	<u>(1,500,000)</u>	<u>(3,000,000)</u>
Total Allocations	(\$4,090,000)	(\$5,265,000)	(\$4,540,000)	(\$9,805,000)
Amount Available for Further Distribution	\$3,311,000	\$2,152,000	\$2,880,000	\$5,032,000

Figure 5 Continued

4

Related Expenditure Accounts (2007 biennium totals)	Renewable Resource (02272)	Reclamation & Development (02458)	Haz. Waste CERCLA (02070)	Environmental Quality Protect. (02162)	Groundwater Assessment (02289)****	Water Storage (02216)	Orphan Share (02472)
Further Distribution % of RIT Interest	30.0%	35%	26%	9.0%	0%	0%	0%
Beginning Fiscal 2005 Fund Balance (SABHRS)	\$1,396,368	\$1,944,494	\$194,540	\$839,661	\$252,454	\$320,696	\$5,093,800
Continuing appropriations	(3,882,647)	(2,580,217)	(31,231)			(589,979)	0
Fiscal 2005 appropriations	(979,066)	(2,961,720)	(895,656)	(915,792)	(666,000)	0	(1,350,144)
Fiscal 2005 Adjustments	0	0	0	0	(252,454)	0	0
Fiscal 2005 revenues (RTIC, agency estimates)	<u>3,930,782</u>	<u>5,565,834</u>	<u>582,000</u>	<u>712,900</u>	<u>666,000</u>	<u>138,000</u>	<u>2,254,000</u>
Projected Available Fund Balance Beginning FY2006	\$465,437	\$1,968,391	(\$150,347)	\$636,769	\$0	(\$131,283)	\$5,997,656
Revenues (RATC, agency estimates)							
RIT Interest-direct	\$4,480,000	\$3,000,000			\$600,000	\$500,000	
RIT Interest-further allocation by above %	1,509,600	1,761,200	1,308,320	452,880			
RIGWA Proceeds		4,474,111			732,000		4,474,095
Metal Mines Tax (7%)		1,311,000					
Coal Tax & Interest (from 04011)	516,009						
STIP/Other Interest	20,000		4,000	6,000		37,500	70,000
Cost Recoveries				1,023,800			
Transfers							
Administrative Fees	14,000						
State-owned Project Revenue	-	-	-	-	-	240,000	-
Total Revenues	<u>\$6,539,609</u>	<u>\$10,546,311</u>	<u>\$1,312,320</u>	<u>\$1,482,680</u>	<u>\$1,332,000</u>	<u>\$777,500</u>	<u>\$4,544,095</u>
Executive Appropriations							
House Bills 6 and 7 Grants (Executive Recommended)	\$4,000,000	\$3,000,000					
House Bill 6-Emergency/Private Grants (Recommended)							
MSU-Northern (statutorily appropriated)	480,000						
UM-Bureau of Mines					\$1,332,000		
DNRC - Centralized Services	10,000	12,000					
DNRC-Conservation and Resource Devel. Division		1,630,243					
DNRC-Water Resources Division		107,428				544,600	
DEQ-Central Management		88,378	28,964				
DEQ-Planning, Prevention & Assistance			266,244				
DEQ-Enforcement		9,648					
DEQ-Remediation			47916	2,199,144			4,150,019
DEQ-Permitting & Compliance		3,243,521	1052358				
DNRCFlathead Basin Commission	16,002						
Judiciary-Water Court	1,533,510						
Library Commission-State Library Operations/NRIS		782,872					
House Bill 13 (executive pay plan estimate)	-	-	-	-	-	-	-
Total Appropriations	<u>\$6,039,512</u>	<u>\$8,874,090</u>	<u>\$1,395,482</u>	<u>\$2,199,144</u>	<u>\$1,332,000</u>	<u>\$544,600</u>	<u>\$4,150,019</u>
Projected 2007 Biennium Ending Balance	<u>\$965,534</u>	<u>\$3,640,612</u>	<u>(\$233,509)</u>	<u>(\$79,695)</u>	<u>\$0</u>	<u>\$101,617</u>	<u>\$6,391,732</u>

* Amounts are deposited to the Natural Resource Worker Scholarship to bring the balance up to \$150,000

** The governor must report on the expenditures from the environmental contingency account in the executive budget. Expenditures are statutorily appropriated.

*** Amounts are deposited to the oil & gas production damage mitigation account to bring the balance up to \$200,000 (82-11-161,MCA). All money in the account is statutorily appropriated.

**** Amounts are deposited to the groundwater assessment account to bring the balance up to \$666,000.

RIGWA/Oil & Gas

Section two of Figure 5 provides the revenue estimates and details the statutory allocations of the RIGWA and applicable portions of the oil and gas tax. The allocations for RIGWA are dictated in statute. The natural resource worker scholarship account has a maximum balance of \$150,000, and allocations to the account are based upon the amount of funds needed to bring the account to the \$150,000 balance. In FY 2005, only \$93,508 was allocated for this reason. The applicable portions of the oil and gas tax are delivered to the funds on a percentage basis.

Interest

Section three provides the amount of interest generated by the RIT and the amounts that are allocated by statute for a specific purpose. 15-38-202, MCA directs the allocation of the RIT interest. For the 2007 biennium statute allocates \$9.8 million in interest for eight purposes. See Figure 4 Based upon FY 2005 expenditures, the environmental contingency account may not receive the total disbursement of \$175,000 as the fund is approaching the maximum balance of \$750,000. Two changes in allocations occur for this biennium: 1) Future Fisheries receives an additional \$150,000 per fiscal year bringing the annual allocation to \$500,000; and 2) the annual allocation for reclamation and development grants is increased from \$1.2 million per year to \$1.5 million per year. After allocations are made, the amount available for further distribution by formula is \$2.1 million in FY 2006 and \$2.9 million in FY 2007, or \$5.0 million for the biennium. The amount available for further distribution in the 2007 biennium is \$1.1 million less than the \$6.0 million available in the 2005 biennium. This change is not due to interest earnings but rather to the changes in allocation that occur in the 2007 biennium.

Expenditure Accounts

Section four provides a breakdown of the related expenditure accounts. The table is broken down to display current fund balances, adjustments for revenues and executive appropriations, and the projected 2007 biennium ending balance. The breakdown provides the detail of which program in what department has an appropriation in the executive budget.

Two funds are expected to have a negative balance at the end of the biennium. The hazardous waste/CERCLA fund will receive \$1.3 million in revenues in the 2007 biennium but \$1.4 million in appropriations are included in the executive budget. The projected 2007 fiscal year end fund balance is negative \$0.2 million. Legislation passed in the 2003 session allowed a \$600,000 transfer from the orphan share to the hazardous waste/CERCLA fund, but must be returned when the fund balance increases. A \$200,000 transfer was made. This legislation expires at the end of the 2005 biennium. The orphan share has a projected FY 2007 ending balance of \$6.3 million.

The environmental quality protection fund will receive \$1.5 million in revenues in the 2007 biennium but \$2.2 million in appropriations are included in the executive budget. The projected 2007 fiscal year end fund balance is negative \$80,000. This could change if the amount of cost recovery is greater than estimated.

The renewable resource fund ends the biennium with a positive cash balance. In previous biennia the library commission received \$0.4 million and the conservation and resource development division of DNRC received \$0.6 million from the renewable resource fund. Funding for these activities have been diverted to the reclamation and development fund. Without this diversion, the renewable resource fund would have ended the 2007 biennium with a negative balance of \$0.1 million.

LFD ISSUE

There are two issues with RIT funding: 1) Statute regarding the renewable resource account and the reclamation and development account does not support the use of funds for non-program related activities; and 2) lack of overall oversight puts the stability of any one of the funds at risk.

**LFD
ISSUE
CONT.***Statutory Uses*

According to 85-1-604, MCA, the renewable resource account is established for the renewable resource grant and loan program. Appropriations from the account are limited to grants and administrative costs of the grant and loan program. Figure 5 illustrates the proposed executive appropriations from the fund. The executive is proposing to fund the Water Court with \$1.5 million in renewable resources funds over the 2007 biennium. The functions of the water court are not related to the grant and loan program.

A similar situation exists with the reclamation and development account. According to 90-2-1104, MCA, appropriations can be made for grants and the administrative costs of the grant program. The executive budget includes \$0.8 million for the natural resource information system (NRIS) through the Library Commission. The NRIS is not directly related to the grant program.

The legislature may wish to do one of the following:

- Adjust statute to allow expenditure for other purposes
- Replace funding for all functions except those authorized by statute

Lack of Oversight

The resource indemnity trust interest, the resource indemnity ground water assessment tax, the metaliferous mine tax, and applicable portions of the oil and gas tax will provide \$26.6 million in revenues over the 2007 biennium to the related resource accounts. Local governments, two universities and four state agencies rely on these resources to operate programs, repair water projects, and maintain data systems. However, there is no centralized legislative oversight of the accounts when appropriations decisions are made. RIT appropriations are made in three separate subcommittees, and other bills impacting the RIT generally do not go through the subcommittee process. This lack of general appropriations oversight of these related accounts puts at risk the stability of any one of the funds, as illustrated by two examples.

- 1) The executive budget contains a funding switch of \$1.0 million between the reclamation and development and the renewable resource accounts. The funding switch is made not for programmatic reasons, but because the fund balance in one account was not sufficient to fund all functions, and a sufficient fund balance exists in the other. (None of the activities in question are related to the administration of the grant and loan programs – see the first issue).
- 2) Legislation will be introduced to increase the flexibility of the orphan share account. The legislation also grants the ability to move \$600,000 in funds from the orphan share account to the hazardous waste/CERCLA account and the environmental quality protection fund. Both funds are predicted to have a negative balance at the end of the biennium. While this action could bring the accounts to a positive position, it does not address the issue of why the transfer is needed, or what an appropriate balance is in the orphan share account.

The legislature may wish to consider the following options:

- Establish a process by which one legislative entity can examine all HB 2 and other proposed legislation impacting one or more RIT accounts during the legislative session to establish an overall policy for the 2007 biennium
- Request that a study be conducted during the interim of the RIT accounts, including sources, uses, and long-term policy, for the purpose of making recommendations to the 2007 legislature

Trust Land Administration

There are two issues with administering of trust lands: 1), the funding source has come under an official constitutionality challenge; and 2) the question of diversification of trust lands for increased revenues has risen out of the proposals for land banking and commercial leasing.

Background

The Enabling Act of 1889 granted the state, for common school support, sections 16 and 36 in every township within the state. Lands that were already homesteaded or within the boundaries of a reservation were replaced with other lands that were selected by the state. The original land grant to the state was 5.2 million acres, with an additional grant of 668,720 acres for endowed institutions. Today the state trust lands total 5.8 million acres, 99 percent of the original grant.

The department is charged with managing state trust lands in a manner that produces revenue for the beneficiaries, protects the future income capacity of the land, and considers environmental impacts. The department is considered the trustee of the lands held in trust for the benefit of common schools, land grant universities, state normal school, School for the Deaf and Blind, veterans home, public builds, and the Pine Hills School. The trust is enforceable as trust law allows the beneficiaries or any other group or individual to sue to enforce the terms of the trust.

The department is required to produce an annual report detailing the return on assets. The report provides market value of assets, examines all revenue sources, and historic performance levels, and provides a detailed breakdown of annual revenues. The report for FY 2004 has not been released at the time of this document. However, overall performance numbers are available. For FY 2004, the department generated total revenues of \$70.2 million, of which \$56.2 million was distributed to the beneficiaries, \$4.4 million was deposited to the permanent fund, and \$9.6 was retained to cover the cost of trust administration. The ratio of dollars returned to dollars expended is \$6.45 to \$1.00.

The complexity of trust land management is difficult to compare to other forms of public land management. Unlike the US Forest Service or the National Park Service with multiple use policies and no profit requirement, revenue generation is the leading concern for trust land managers. Unique to trust lands, in this state and others, are two major issues. First, how trust fund management is funded; second, how trust lands should be managed. Both issues will be present during the 2005 legislative session.

Funding of Trust Land Management

Trust land administration is currently funded through the retention of a portion of trust fund revenues, recreational fees, and general fund for the management of non-trust state lands. Non-trust state land would include armories and lands owned by other state agencies. There are seven funds established for trust fund administration, and they are summarized in Figure 6. Funds are inter-related in that they all receive trust revenue, which reduces income to the trust beneficiaries. However, each fund is designed for a specific purpose. This set up can further complicate the fiscal management of trust lands.

Figure 6 Department of Natural Resources and Conservation Trust Land Funding Resources		
Fund and Description	Fund #	MCA
Trust Administration Account	02938	77-1-108
The amount appropriated from the account by the legislature is deposited from mineral royalties, proceeds		
Timber Sale Account	02280	77-1-613
The amount appropriated from the account by the legislature is deposited from timber sale revenue. Fund is to be utilized for timber sale preparation and documentation.		
Forest Improvement Fees	02449	77-5-204
Fee added to the sale of timber from state lands for the department to use for slash disposal, road maintenance, reforestation, and complying with legal requirements for timber harvesting.		
Resource Development	02450	77-1-604
Three percent of trust revenues deposited for the purpose of developing and improving state lands to increase revenues.		
Recreational Use Fees	02241	77-1-808
\$2.00 surcharge on conservation licenses to reimburse state lands for recreational usage. Ten percent of the revenue can be retained for damage compensation, weed control, protection of assets and recreational		
Trust Land Banking	02324	77-2-362
Ten percent of proceeds from land sales can be retained to cover the transactional costs of buying and selling property		
Trust Land Commercial Leasing	02836	77-1-905
Ten percent of annual rents received from commercial leases to be utilized for contracting with realtors, property managers, attorneys, or leasing professionals for program administration.		

The executive budget contains \$19.6 million in appropriations for the 2007 biennium from these seven funds. Figure 7 summarizes the amount by fund. This amount represents an 8.5 percent increase in base administrative funding for the trust land program, if all decision packages are approved.

Constitutionality of Funding Methodology

Legislative legal counsel has long challenged the constitutionality of the funding of trust land administration. A 2004 legislative audit of the department echoed the concern saying “questions concerning the legality of using mineral royalties and other permanent trust revenues to administer trust lands.”¹ The report details the potential conflict that exists between the Constitution and state law. Article X of the Constitution establishes the trust permanent fund and provides for the disposition of trust land revenues, but is silent on the retention of revenues for land administration. Statute (77-1-109, MCA) provides the authority for the department to deposit revenues to an administrative account that by Constitutional declaration should be deposited to the permanent fund or distributed to beneficiaries. According to the audit, \$17.2 million has been deposited to the administration account since FY 2000, most of which are mineral royalties.

Figure 7
Trust Land Related Accounts
2007 Biennium Executive Budget Appropriations

		FY 2004	FY 2005	FY 2006	2007 Biennium
02241	Recreational Use	70,273	88,273	88,273	176,546
02280	Timber Sales	3,096,755	3,366,471	3,371,449	6,737,920
02324	State Land Bank	-	153,000	153,000	306,000
02449	Forest Improvement Fee	1,580,189	1,603,303	1,603,918	3,207,221
02450	Resource Development	545,944	547,387	547,387	1,094,774
02836	Commercial Leasing	-	30,000	30,000	60,000
02938	Trust Land Administration	3,742,532	4,020,530	4,030,164	8,050,694
		\$ 9,035,693	\$ 9,808,964	\$ 9,824,191	\$ 19,633,155

According to the audit findings, statute is consistent with the Constitution on the disposition of mineral royalties. 77-3-318, 77-3-346 and 77-3-206, MCA all direct mineral royalties to be deposited to the permanent fund. The audit recommended that the department seek a legal opinion from the attorney general, an amendment to the Constitution, or a change in state law.

At the time of this writing, a beneficiary or group of beneficiaries have not come forward to file legal suit to challenge the practice of utilizing revenues to fund trust land administration. In a November news report, the Montana Board of Regents pledged “mediation, not litigation”² as a means to resolve the question of the alleged \$12 million of university trust dollars used for the purpose of trust land administration.

At the center of the issue is the conflict related specifically to mineral royalties. However, other trust fund revenues are being retained to fund trust land management. As recently as the 2003 legislative session, statute was passed to retain income from the sale and leasing of state land for the purpose of program administration.

Proposed Legislation

Major legislation will be proposed to address the issue. With such legislation the legislature can choose to address the broad spectrum of revenues, and develop a funding formula with an alternative source of revenue. Since the ability to use state special revenue derived from trust revenue is the issue, the alternative funding source would likely be general fund.

At the time of this writing, the major legislation proposes to repeal the authority to utilize trust revenues for administration, eliminate the forest improvement fee, and provide a statutory appropriation from the general fund. The statutory appropriation is based upon 15 percent of the annual average gross revenue of all ten trusts. This appropriation would establish a return on assets of \$6.66 income for every \$1.00 spent and is comparable to the FY 2004 the ratio of \$6.45 income to \$1.00 spent. In 2003, legislation regarding land banking, recreational use fees, and commercial leasing of state trust lands set the administrative rate for those functions at 10 percent.

¹ Legislative Audit Division, Report # 04-17, Financial Compliance Audit, Department of Natural Resources and Conservation, November 2004.

² Cohen, Betsy “State, regents tussle over land money”, The Missoulian, November 19, 2004

Types of Appropriations

Statutory appropriations are designed to ensure a certain level or source of revenue is available for a particular purpose. Appropriations in statute are not regularly reviewed as the temporary (HB2) appropriations are. As the name implies, to make a change to a statutory appropriations requires change to the statute.

Legislative legal counsel maintains that a statutory appropriation of general fund provides secure funding for the fiduciary responsibility of trust land management. Without a secure source of financing, the department's ability to manage trust lands to secure the largest measure of legitimate and reasonable advantage to the state might be hampered.

The legislature does still have the option to provide for funding of trust land management through a temporary (HB2) appropriation. The option is not without risks. The legislature may want to consider the following risks for trust land management appropriation in HB2:

- In the case of shortfalls in the general fund, the department would be vulnerable to reductions in funding
- The department would be required to compete for general fund during the legislative session
- There would be no guarantee that an appropriate level of funding would be provided to the department for trust land management

Funding methodology

The statutory appropriation is based upon 15 percent of the annual average gross revenue of all ten trusts. This appropriation would establish a return on assets of \$6.66 income for every \$1.00 spent and is comparable to the FY 2004 the ratio of \$6.45 income to \$1.00 spent. In 2003, legislation regarding land banking, recreational use fees, and commercial leasing of state trust lands set the administrative rate for those functions at 10 percent.

The funding methodology does not provide incentive to the department to manage trust lands in the most efficient manner. During the 2003 legislative session, the department accepted an administrative rate of 10 percent for specific trust activities. The statute guarantees the department fifteen percent regardless of the trust's performance.

Management of State Lands

Revenue by Land Type

The department is charged with managing state trust lands in a manner that produces revenue for the beneficiaries, makes judicious use of the land, and insures perpetuity of the income producing potential of the land. Figures 8 & 9 illustrate the percentage of land by type and the income generated per acre. The majority of trust land is classified as grazing land where revenue is generated at \$1.25 per acre. In comparison, the least amount of trust land is classified as special use where revenue is generated at \$54.83 per acre.

Figure 8

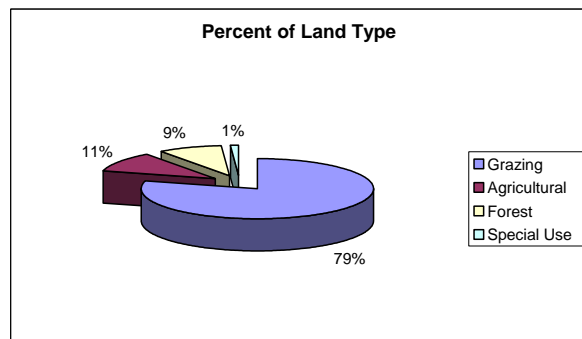
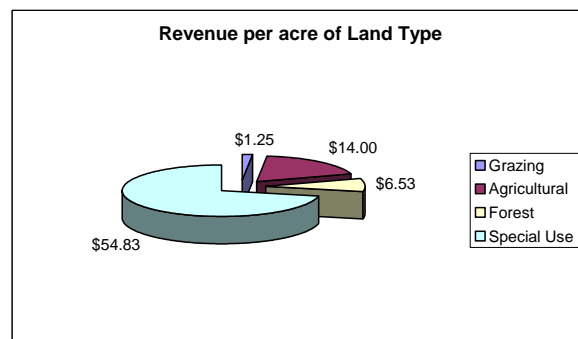


Figure 9



To increase the return on the \$3.3 billion in assets held in trust, diversification could be considered. During the 2003 legislative session, legislation clarifying the ability of the department to lease land for commercial purposes and create the opportunity to exchange land through land banking was passed. The department spent the 2005 biennium putting together the framework of the commercial leasing and land-banking program. The executive budget proposes to continue both programs to further the diversification of trust land revenues.

Diversification Issues

Diversification of trust land revenues through commercial leasing and land banking provide an opportunity for increased revenues. This diversification effort can provide the opportunity to look further into the philosophy of generating trust revenue.

The legislature may wish to consider the following when addressing trust land revenue issues:

- Should trust lands with low value be held when they could be sold and the proceeds put into the permanent fund earning greater revenues
- Should land be held which could be exchanged for land with higher revenue producing capacity
- Is the trust adequately compensated for the recreational use of trust land
- Is timber revenue generated in the most efficient manner

Water Rights Adjudication

History

The Montana constitution states “all surface, underground, flood and atmospheric waters within the boundaries of the state are the property of the state for the use of its people”. Because all waters belong to the people, water right users do not own the water itself. Rather, they possess a right to use the water within state guidelines. Montana is a “prior appropriation” doctrine state, meaning that water rights are based on first in time, first in right. Specifically, the person who used the water from a source first had the first right. Prior to 1973 there was no requirement that a water user file any type of record showing that they were using water. The water user simply had to put the water to beneficial use and they had a water right. Article IX, section 3 of the Montana Constitution also provides that all existing rights to the use of any waters for any useful or beneficial purpose are hereby recognized and confirmed.

The Montana Water Use Act was passed in 1973. Two major changes to water rights administration resulting from the act were: 1) the requirement that all water rights existing prior to July 1, 1973 be finalized through a statewide adjudication process in state courts to identify the water rights that existed prior to the requirement for record keeping and filing in order to provide those rights with the constitutional protection that they are given; and 2) establishment of a centralized record system of all water rights. Both changes have encountered a difficult course of action over the last three decades. The process has been challenged through legal actions, fluctuating staff levels, and funding shortfalls. Thirty-two years later, 57,000 claims and 18,800 irrigation claims for re-examination have yet to be adjudicated.

Basic Process

The Montana Water Court (see Judiciary in Section A of volume 3 for additional information) is responsible for administering the adjudication process. The process consists of claims examination, preliminary decree, public notice, hearings, and the final decree. The department is responsible for the examination function and for providing technical assistance to the Water Court when needed.

The Water Court evaluates one basin at a time. Prior to the evaluation, department staff must verify that each claim is complete, accurate, and reasonable. This is done through reviewing historical records, photographs, fieldwork, and discussions with the claimant. Once all claims in a basin have been examined, the department issues a summary report to the Water Judge, who uses the information to compose the basin decree to assign water rights.

Database

The water rights database was recently converted from a COBOL language driven legacy database that few individuals could operate to an Oracle database using windows based software on a server-based PC. The new database provided the opportunity to merge the operations of the adjudication and “new appropriations” programs together, (new appropriations are water right assigned after 1972) to improve the efficiency of business practices. Still, the database is not yet fully functional and is not capable of printing a decree.

The department submitted a budget amendment for \$100,000 of Jobs and Growth Tax Reconciliation Relief Act funding to complete 15 tasks and 17 additional enhancements to enable the department to issue a decree. The old system is being maintained for the purpose of issuing decrees. These activities are to be completed by July 1, 2005.

2007 Biennium

Stakeholders agree that the water adjudication process needs to be completed. The Environmental Quality Council (EQC) is requesting legislation to place the adjudication process on a 15-year time frame, ten years to complete the field work necessary to provide summary reports on the basins and an additional five years for the Water Court to complete the decree process. The time frame would require significant funds. The EQC estimates (preliminary) that \$51 million would need to be raised over the course of ten years to cover the expense of the full fifteen years. If this legislation passes the net impact to DNRC for the course of the fifteen years would be \$22.4 million.

There are two main expectations of the legislation (LC0395)

- DNRC will complete claims examination and reexamination of verified basins by June 30, 2015.
- The Water Court will issue preliminary or temporary preliminary decrees by June 30, 2020 for all basins.

Costs of LC 0395:

- 1) The EQC estimates the cost of this program at \$51.5 million over the period from July 1, 2005 through June 30, 2020. In order to fund this project, it proposes two sources:
 - \$31.2 million or 61 percent from water user fees imposed for a ten-year period to collect sufficient funds for the 15-year project timeframe.
- 2) In order to collect these funds, LC 0395:
 - Sets a water user fee schedule that is either a flat fee or a graduated fee based upon the characteristics of the user
 - Sets up a debt collection process for water users that do not pay the fee
 - Sets up a water adjudication account to collect and hold the fee until disbursed to the DNRC or the Water Court
 - Sets up reporting requirements by the Water Court and the DNRC to the EQC
 - Makes the funding of this process subject to a statutory appropriation
 - \$20.3 million or 39 percent from state special and general fund sources.

The state special revenue sources have not been identified, nor has the ratio of any state special revenue funds to general fund. The executive has not recommended any additional funds to expedite the water adjudication process either in DNRC or the Judiciary.

Fire Suppression Costs

As discussed in the “Agency Narrative” section, Montana has incurred obligations for fire suppression costs of over \$35 million for the 2005 biennium. The average cost of forest fires the last seven years has been in excess of \$14 million each biennium. The legislature does not establish an appropriation for fire suppression costs. Historically, fire costs have been paid temporarily from the Forestry Division’s general fund appropriation and through the statutory emergency appropriation if an emergency or disaster is declared. The department is then reimbursed and all other bills, except those paid with the emergency appropriation, are funded through a supplemental appropriation. Consequently, all funding comes from the State’s general fund ending fund balance and any determination of that balance must take into account the likely obligation.

Cash Flow Issues

The majority of fire costs have to be paid as they occur, creating a need for intense cash flow over a short period of time. Since wild fire costs are not appropriated by the legislature, the department uses the Forestry Division's general fund appropriation to cover costs. If that is not sufficient, other programs appropriations are used. The Governor's emergency fund may be used as was the case in FY 2004, or a general fund loan can be obtained to get the department through until reimbursements become available. Reimbursements from federal agencies may not be known until fires are under control and the cost allocation process begins. As the exception, Federal Emergency Management Agency (FEMA) advances can be provided to the state when certain conditions exist. The department took advantage of this option in FY 2004. Legislative appropriations for state costs cannot be made until the legislature is in session.

Risk of Special Session

While the total cost of fire suppression varies, as stated the average net cost of fire suppression is \$7 million per year or \$14 million over the biennium. Figure 10 provides this information, utilizing a five of a seven-year average with the high and low removed. Even with these wide ranging costs, the department has been able to work through the maze of securing appropriations and cash to cover the cost of fire suppression as it occurs and after the fact.

As described in the agency narrative section, the FY 2004 fire season was severe and the availability of one-time-only federal funding and FEMA reimbursements prevented a severe funding shortage and potentially a budget cutting special session during an already tight fiscal year. In cash strapped years, a special session would be required to deal with funding fire suppression.

Fire Funding Activities

The idea of establishing a funding system rises to the surface each fire season. With the goal of a better system, the department established a fire funding committee in October of 2003. The committee gathered stakeholders to engage in discussions regarding fire-funding alternatives. The committee did establish a number of funding ideas.

However, due to the lack of support from the majority of stakeholders, the department did not move forward with sponsoring any legislation on fire funding. The committee concluded that continued analyses of fire costs and the relative benefit to stakeholders is needed to generate sufficient support to revise Montana's fire funding system and that it would be beneficial to coordinate such efforts with a formal legislative or executive entity such as the Environmental Quality Council, the Legislative Finance Committee, or a standing advisory board appointed by the Governor.

Prevention Efforts

Funding fire suppression is only one side of the equation. Funding fire prevention activities needs equal consideration. For every fire that is prevented, literally thousands, if not millions of dollars, are saved. As the number of Montanans in the wild land urban interface increases, so does the chance for destructive fires to occur. The department has programs for defensible space, fuel reduction, and education that could enhance the effort in reducing overall fire costs.

Study of Fire Costs

The Legislative Audit Division undertook an audit of fire costs. The audit focused on the method of fire funding, processes associated with obtaining federal assistance, and on-the ground activities that drive fire costs. The audit contains a number of recommendations to improve processes related to fire funding, and the audit emphasizes the need to appropriate sufficient funding for fire suppression to simplify the process, avoid cash flow issues, and reduce the likelihood of a cost cutting special session.

Figure 10 Average Cost of Fire Suppression			
Fiscal Year	Total Cost	Reimbursements	Net Cost
1999	8,303,438	(2,402,172)	5,901,266
2000	5,205,614	(914,375)	4,291,239
2001	54,925,104	(44,784,017)	10,141,087
2002	16,417,193	(3,549,700)	12,867,493
2003	6,710,688	(4,684,927)	2,025,761
2004 (estimate)*	79,615,534	(46,189,104)	33,426,430
2005 (estimate)*	3,072,615	(819,677)	2,252,938
5 Year Average Cost	\$18,312,407		\$7,045,369
7 year Average Cost (high and low included)	24,892,884		10,129,459
* Not included in the 5 year average calculation			

Summary

It is very unlikely that the one-time federal windfall that covered the costs of FY 2004 and FY 2005 will materialize again. Federal reimbursements are dependent upon ever-changing requirements, and the piecemeal funding approach may not suffice in years of high fire costs. The legislature may wish to consider the following options when addressing the issue of funding fire suppression costs:

- Develop legislation to create a task force to continue the research of alternatives to funding wild land fire costs, including who should pay, and appropriate state funding of prevention efforts, as well as, suppression efforts
- Establish an appropriation equal to the average annual costs of fire suppression
- Assume an amount for fire suppression when establishing the projected general fund balance
- Establish an appropriation to increase the activities of fire prevention in the wild land urban interface.

Program Proposed Budget

The following table summarizes the executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2004	PL Base Adjustment Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	PL Base Adjustment Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Exec. Budget Fiscal 06-07
FTE	37.00	0.00	0.00	37.00	0.00	0.00	37.00	37.00
Personal Services	1,744,660	122,847	0	1,867,507	123,029	0	1,867,689	3,735,196
Operating Expenses	543,492	38,491	0	581,983	(57,378)	0	486,114	1,068,097
Equipment	0	0	0	0	30,000	0	30,000	30,000
Debt Service	3,344	0	0	3,344	0	0	3,344	6,688
Total Costs	\$2,291,496	\$161,338	\$0	\$2,452,834	\$95,651	\$0	\$2,387,147	\$4,839,981
General Fund	1,819,275	122,664	0	1,941,939	39,353	0	1,858,628	3,800,567
State/Other Special	400,820	29,443	0	430,263	44,443	0	445,263	875,526
Federal Special	71,401	9,231	0	80,632	11,855	0	83,256	163,888
Total Funds	\$2,291,496	\$161,338	\$0	\$2,452,834	\$95,651	\$0	\$2,387,147	\$4,839,981

Program Description

The Centralized Services Division provides managerial and administrative support services to the department through, the Director's Office, which includes the director, legal staff, and public information; and support services, which manages all financial activities, coordinates information systems, produces publications and graphic materials, and performs general administrative support services. Support services include fiscal affairs, data processing, personnel, legal, reception, and mail. Division responsibilities include trust revenue collection and distribution and maintenance of ownership records for trust and non-trust state-owned land.

Program Highlights

Centralized Services Division Major Program Highlights	
<ul style="list-style-type: none"> The executive is seeking authority for a new phone system in the Billings office and rental increases The remainder of the increase is due to statewide adjustments 	

Funding

The following table shows program funding, by source, for the base year and for the 2007 biennium as recommend by the Governor.

Program Funding Table Centralized Services						
Program Funding	Base FY 2004	% of Base FY 2004	Budget FY 2006	% of Budget FY 2006	Budget FY 2007	% of Budget FY 2007
01100 General Fund	\$ 1,819,275	79.4%	\$ 1,941,939	79.2%	\$ 1,858,628	77.9%
02031 Forest Resources - Nursery	5,000	0.2%	5,000	0.2%	5,000	0.2%
02039 Forestry-Fire Protection Taxes	43,000	1.9%	46,000	1.9%	48,000	2.0%
02052 Rangeland Improvement Loans	15,000	0.7%	15,000	0.6%	15,000	0.6%
02073 Forestry - Slash Disposal	-	-	5,000	0.2%	5,000	0.2%
02145 Broadwater O & M	9,000	0.4%	9,500	0.4%	9,500	0.4%
02272 Renewable Resources Grnt/Loans	-	-	5,000	0.2%	5,000	0.2%
02280 Forest Resources-Timber Sales	75,000	3.3%	78,000	3.2%	78,000	3.3%
02340 Coal Sev. Tax Shared Ssr	5,000	0.2%	5,000	0.2%	5,000	0.2%
02430 Water Right Appropriation	27,000	1.2%	28,000	1.1%	28,000	1.2%
02432 Oil & Gas Era	63,000	2.7%	63,500	2.6%	63,500	2.7%
02449 Forest Resources-Forest Improv	29,000	1.3%	32,000	1.3%	32,000	1.3%
02450 State Lands Res Dev	49,820	2.2%	51,263	2.1%	51,263	2.1%
02458 Reclamation & Development	-	-	5,000	0.2%	7,000	0.3%
02825 Water Well Contractors	5,000	0.2%	5,000	0.2%	5,000	0.2%
02938 Tlmd - Administration	75,000	3.3%	77,000	3.1%	88,000	3.7%
03255 Csd Federal Indirect	71,401	3.1%	80,632	3.3%	83,256	3.5%
Grand Total	\$ 2,291,496	100.0%	\$ 2,452,834	100.0%	\$ 2,387,147	100.0%

The Centralized Services Division is primarily funded with general fund (79.4 percent), a variety of resource-based accounts (17.5 percent) such as revenue from timber sales and taxes on oil and gas wells, and federal indirect grant reimbursements (2.1 percent). To obtain funding the department charges overhead rates to other divisions to recover costs. The rate varies depending upon the type and amount of managerial, payroll, contract, and accounts payable services provided to the divisions.

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
-----Fiscal 2006-----					-----Fiscal 2007-----				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				200,660					200,852
Vacancy Savings				(77,813)					(77,823)
Inflation/Deflation				(1,857)					(1,679)
Fixed Costs				21,886					(79,410)
Total Statewide Present Law Adjustments				\$142,876					\$41,940
DP 2101 - CSD Operating Adjustment									
0.00	9,231	0	9,231	18,462	0.00	11,856	0	11,855	23,711
DP 2102 - Phone System Billings Office-OTO									
0.00	0	0	0	0	0.00	15,000	15,000	0	30,000
Total Other Present Law Adjustments									
0.00	\$9,231	\$0	\$9,231	\$18,462	0.00	\$26,856	\$15,000	\$11,855	\$53,711
Grand Total All Present Law Adjustments				\$161,338					\$95,651

DP 2101 - CSD Operating Adjustment - The executive budget includes a request for an operating adjustment for rent. The DNRC office is located in a non state-owned building and rent is not shown as a fixed cost within Department of Administration schedules. Rent for the USF & G building in Helena has been negotiated at \$172,927 for FY 2006 and \$178,176 for FY 2007, an increase from the FY 2004 base (\$154,595) of \$18,332 (11.8 percent) and \$23,581 (13.6 percent) respectively. In addition, janitorial service is expected to increase \$130 each year of the biennium.

DP 2102 - Phone System Billings Office-OTO - The executive budget includes a request to replace the phone system at the DNRC Billings Office, due to age and difficulty in finding parts for repairs. This office houses four divisions: Forestry, Trust Lands, Water Resources, and Conservation and Resource Development Division, as well as the Department of Environmental Quality.

**LFD
COMMENT**

The executive is requesting the appropriation to be designated as one-time-only in nature. The Department of Environmental Quality will provide additional funding for this project.

Program Proposed Budget

The following table summarizes the executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2004	PL Base Adjustment Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	PL Base Adjustment Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Exec. Budget Fiscal 06-07
FTE	20.50	0.00	1.00	21.50	0.00	1.00	21.50	21.50
Personal Services	809,721	221,639	34,129	1,065,489	235,386	34,099	1,079,206	2,144,695
Operating Expenses	295,245	93,963	615,000	1,004,208	94,638	475,000	864,883	1,869,091
Equipment	38,307	11,693	0	50,000	11,693	0	50,000	100,000
Total Costs	\$1,143,273	\$327,295	\$649,129	\$2,119,697	\$341,717	\$509,099	\$1,994,089	\$4,113,786
State/Other Special	1,036,392	434,176	649,129	2,119,697	448,598	509,099	1,994,089	4,113,786
Federal Special	106,881	(106,881)	0	0	(106,881)	0	0	0
Total Funds	\$1,143,273	\$327,295	\$649,129	\$2,119,697	\$341,717	\$509,099	\$1,994,089	\$4,113,786

Program Description

The Oil and Gas Conservation Division administers the Montana oil and gas conservation laws to promote conservation and prevent waste in the recovery of these resources through regulation of exploration and production of oil and gas. The division: 1) issues drilling permits; 2) classifies wells; 3) establishes well spacing units and pooling orders; 4) inspects drilling, production, and seismic operations; 5) investigates complaints; 6) does engineering studies; 7) determines incremental production for enhanced recovery and horizontal wells to implement the tax incentive program for those projects; 8) operates the underground injection control program; 9) plugs orphan wells; and 10) collects and maintains complete well data and production information.

Program Highlights

Oil and Gas Conservation Division Major Program Highlights	
<ul style="list-style-type: none"> The executive is seeking authority for outreach activities to promote Montana's oil and gas industries Seeking authority for the continuation of coal bed methane baseline studies The program is funded entirely with state special revenue 	
Major LFD Issues	
<ul style="list-style-type: none"> Authority for new activities should be designated as restricted and one-time only providing the division the ability to evaluate the activities 	

Funding

The following table shows program funding, by source, for the base year and for the 2007 biennium as recommend by the Governor.

Program Funding Table Oil & Gas Conservation Div.						
Program Funding	Base FY 2004	% of Base FY 2004	Budget FY 2006	% of Budget FY 2006	Budget FY 2007	% of Budget FY 2007
02432 Oil & Gas Era	\$ 1,036,392	90.7%	\$ 2,119,697	100.0%	\$ 1,994,089	100.0%
03356 Oil & Gas Federal	106,881	9.3%	-	-	-	-
Grand Total	<u>\$ 1,143,273</u>	<u>100.0%</u>	<u>\$ 2,119,697</u>	<u>100.0%</u>	<u>\$ 1,994,089</u>	<u>100.0%</u>

The division is funded through taxes levied on oil and gas well and the class II annual operating fee. By statute (15-36-324, MCA) a percentage of oil production taxes and natural gas taxes are deposited to the account for the board's use. The board by statute (82-11-131, MCA) can set privilege and license tax up to 3/10 of 1 percent of the market value of each barrel of crude petroleum produced and of each 10,000 cubic feet of natural gas produced to comply with 15-36-324, MCA. Section 82-11-137, MCA, provides for a maximum \$300 annual operating fee for each class II injection well. The board set the fee at \$200. The division also receives federal funding from the Environmental Protection Agency (EPA) for the underground injection control program.

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
-----Fiscal 2006-----					-----Fiscal 2007-----				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				225,809					224,419
Vacancy Savings				(41,420)					(41,366)
Inflation/Deflation				(1,984)					(1,977)
Fixed Costs				6,525					6,582
Total Statewide Present Law Adjustments				\$188,930					\$187,658
DP 2206 - O&G Regulatory Program Operating Adjustments									
0.00	0	75,156	0	75,156	0.00	0	84,499	0	84,499
DP 2207 - O&G UIC Program Operating Adjustments									
0.00	0	63,209	0	63,209	0.00	0	69,560	0	69,560
Total Other Present Law Adjustments									
0.00	\$0	\$138,365	\$0	\$138,365	0.00	\$0	\$154,059	\$0	\$154,059
Grand Total All Present Law Adjustments				\$327,295					\$341,717

DP 2206 - O&G Regulatory Program Operating Adjustments - The executive is requesting a present law adjustment for personal services to include; 1) exempt salary and related benefit increases of \$16,398 in FY 2006 and \$25,216 in FY 2007, 2) board per diem of \$9,760 per year; and overtimes of \$2,480 per year. Operating increases include; 1) \$22,754 per year to annualize the cost of contracted legal, janitorial and database services; 2) \$869 in FY 2006 and \$1,394 in FY 2007 for increase rent costs in non-state owned buildings; 3) \$9,563 per year in travel and related costs of new field inspector; and 4) \$1,492 per year in increased telephone charges. The additional authority would be added to the base and be used to purchase replacement vehicles.

DP 2207 - O&G UIC Program Operating Adjustments - The executive is requesting a present law adjustment for personal services to include; 1) exempt salary and related benefit increases of \$11,652 in fiscal year 2006 and \$17,917 in fiscal 2007, 2) board per diem of \$2,440 per year; and overtimes of \$620 per year. Operating increases include; 1) \$44,328 per year to annualize the cost of contracted legal, janitorial and database services; 2) \$1999 per year in travel and related costs of new field inspector; and 4) \$3,390 in FY 2006 and \$3,476 in fiscal 2007 in increase general operating costs such as phone, rent and supplies.

**LFD
COMMENT**

In previous legislative sessions, the division submitted one decision package representing present law adjustments for both the Regulatory and UIC programs. This session, the requests are in separate packages.

In comparison, 2007 biennium present law adjustment requests total \$138,365, the 2005 biennium adjustment was approved at \$89,186 adjustment for the same programs. This represents a 35% increase in costs.

New Proposals

-----Fiscal 2006-----						-----Fiscal 2007-----				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 2201 - Public Access Data System-OTO										
22	1.00	0	209,129	0	209,129	1.00	0	209,099	0	209,099
DP 2203 - O&G Energy Education and Outreach-Biennial										
22	0.00	0	125,000	0	125,000	0.00	0	0	0	0
DP 2204 - O&G North American Prospect Exposition-Biennial										
22	0.00	0	15,000	0	15,000	0.00	0	0	0	0
DP 2205 - Coal Bed Natural Gas Baseline Studies										
22	0.00	0	300,000	0	300,000	0.00	0	300,000	0	300,000
Total	1.00	\$0	\$649,129	\$0	\$649,129	1.00	\$0	\$509,099	\$0	\$509,099

DP 2201 - Public Access Data System-OTO - The executive is requesting state special revenue of \$209,129 in FY 2006 and \$209,099 in FY 2007 to expand upon an on-going data project started in the 2005 biennium to acquire and maintain historical oil and gas data including well logs and field information and scan the data for web delivery. The major expense would be contracted services to scan the 50 years of historical data in the Billings office.

DP 2203 - O&G Energy Education and Outreach-Biennial - The executive requests a biennial appropriation of \$125,000 to provide summer oil and gas workshops for teachers, provide curricula materials and field trips to students at all grade levels, and develop a science project competition. The goal of the program is to increase awareness of the importance of the oil and gas industry in Montana and to encourage students to pursue careers in the sciences and technologies used in the industry. This will be a cooperative effort between the Montana Board of Oil and Gas Conservation (Board) and Montana Tech.

**LFD
ISSUE**

This is a new function of the division. The legislature may wish to designate this appropriation as restricted and one-time only to provide the division the opportunity to implement and evaluate the program prior to adding this authority to the base budget.

DP 2204 - O&G North American Prospect Exposition-Biennial - The executive budget includes a proposal for a biennial appropriation of \$15,000 to sponsor a "Come to Montana" booth at the annual North American Prospect Expedition, a convention of oil and gas companies representatives from all over the world. Funding would provide for out of state travel, supplies and materials, and registration fees.

**LFD
ISSUE**

This is a new activity for the division. The legislature may wish to designate this appropriation as restricted and/or one-time only to provide the opportunity to attend the convention and evaluate the experience prior to adding this authority to the base.

DP 2205 - Coal Bed Natural Gas Baseline Studies - The executive is requesting \$ 300,000 in state special revenue each year to complete baseline studies and investigations to improve the effectiveness of the oil and gas regulatory program in relation to coal bed methane production. Funds would also be used to provide matching funds for Department of Energy research solicitations regarding coal bead methane production.

Language

The department is authorized to decrease state special revenue money in the underground injection control program and increase federal special money by a like amount when the amount of federal EPA funds available for the program becomes known. Any federal special revenue is to be spent before state special revenue.

Program Proposed Budget

The following table summarizes the executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2004	PL Base Adjustment Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	PL Base Adjustment Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Exec. Budget Fiscal 06-07
FTE	21.50	1.00	0.00	22.50	1.00	0.00	22.50	22.50
Personal Services	1,181,422	26,407	0	1,207,829	28,455	0	1,209,877	2,417,706
Operating Expenses	1,058,250	169,422	105,000	1,332,672	97,453	102,000	1,257,703	2,590,375
Equipment	24,404	0	0	24,404	0	0	24,404	48,808
Capital Outlay	0	0	0	0	0	0	0	0
Local Assistance	213,373	50,000	250,000	513,373	0	250,000	463,373	976,746
Grants	924,622	45,431	0	970,053	0	0	924,622	1,894,675
Benefits & Claims	1,000,000	3,500,000	0	4,500,000	3,500,000	0	4,500,000	9,000,000
Transfers	0	0	0	0	0	0	0	0
Debt Service	77,080	0	0	77,080	0	0	77,080	154,160
Total Costs	\$4,479,151	\$3,791,260	\$355,000	\$8,625,411	\$3,625,908	\$352,000	\$8,457,059	\$17,082,470
General Fund	2,316,762	3,455,202	0	5,771,964	3,455,920	0	5,772,682	11,544,646
State/Other Special	1,961,828	269,356	355,000	2,586,184	94,136	352,000	2,407,964	4,994,148
Federal Special	200,561	66,702	0	267,263	75,852	0	276,413	543,676
Total Funds	\$4,479,151	\$3,791,260	\$355,000	\$8,625,411	\$3,625,908	\$352,000	\$8,457,059	\$17,082,470

Program Description

The Conservation and Resource Development Division provides technical, administrative, financial, and legal assistance to Montana's 58 conservation districts by administering the Conservation District Act, Montana Rangeland Resources Act, and the Natural Streambed and Land Preservation Act. The division also manages several loan and grant programs for local communities, local governments, state agencies, and private citizens. The programs include the state revolving fund, which currently includes \$150 million loaned to communities for water and waste water systems, coal severance tax loans to governmental entities totaling \$45 million, and private loans for \$16.5 million. Grant programs administered by the division include the Reclamation and Development, Renewable Resource, and Conservation District grant programs.

Program Highlights

Conservation and Resource Development Division Major Budget Highlights	
<ul style="list-style-type: none"> A \$9 million request to pay off the Crow Tribe Settlement is included in the executive's budget The executive is seeking an expansion to the State Revolving Fund Drinking Water Program and funds to support the Musselshell Valley Regional Water Project 	
Major LFD Issues	
<ul style="list-style-type: none"> The request for the Grazing District Commission exceeds the funding stream 	

Funding

The following table shows program funding, by source, for the base year and for the 2007 biennium as recommend by the Governor.

Program Funding Table						
Conservation/Resource Dev Div						
Program Funding	Base FY 2004	% of Base FY 2004	Budget FY 2006	% of Budget FY 2006	Budget FY 2007	% of Budget FY 2007
01100 General Fund	\$ 2,316,762	51.7%	\$ 5,771,964	66.9%	\$ 5,772,682	68.3%
02015 Tsep Regional Water System	360,370	8.0%	540,034	6.3%	542,932	6.4%
02052 Rangeland Improvement Loans	8,111	0.2%	8,111	0.1%	8,111	0.1%
02270 Treasure State Endowment	28,000	0.6%	28,000	0.3%	28,000	0.3%
02272 Renewable Resources Grnt/Loans	315,177	7.0%	-	-	-	-
02316 Go94B/Ban 93D Admin	15,095	0.3%	19,550	0.2%	20,400	0.2%
02340 Coal Sev. Tax Shared Ssr	627,132	14.0%	722,563	8.4%	627,132	7.4%
02433 Grazing District Fees	40,456	0.9%	124,456	1.4%	40,456	0.5%
02458 Reclamation & Development	490,407	10.9%	816,390	9.5%	813,853	9.6%
02490 Drinking Water Investment	-	-	250,000	2.9%	250,000	3.0%
02997 Go 2004A Ww Srf Coi	77,080	1.7%	77,080	0.9%	77,080	0.9%
03178 Res Dev & Cons - Fed	35,650	0.8%	35,650	0.4%	35,650	0.4%
03245 Wastewater Treatment Grant	74,907	1.7%	95,450	1.1%	99,600	1.2%
03442 Dw Srf 03	68,841	1.5%	108,000	1.3%	110,000	1.3%
03687 Drinking Water Srf Ffy02	21,163	0.5%	28,163	0.3%	31,163	0.4%
Grand Total	<u>\$ 4,479,151</u>	<u>100.0%</u>	<u>\$ 8,625,411</u>	<u>100.0%</u>	<u>\$ 8,457,059</u>	<u>100.0%</u>

This program is primarily funded with general fund, RIT accounts, and coal severance taxes.

RIT funding is used to administer the Reclamation and Development Grants Program (RDGP) and the Renewable Resources Grant and Loan Program (RRGLP). The RDGP is a state-funded grant program that assists any department, agency, and division of state government, tribal government, board, or commission to indemnify the people of the state for the effects of mineral development on public resources. The RRGLP funds a variety of natural resource projects including groundwater studies, irrigation projects, water and soil conservation, and public wastewater projects primarily through grants administered by the department. Coal severance tax is used to provide grants to conservation districts for natural resource related projects such as streambed stabilization, soil conservation, educational activities, and demonstrations of new technologies.

The Natural Resource Development Bureau utilizes nearly half of the division general fund to administer grant and loan programs, provide assistance to conservation districts for the administration of water reservations, and assist landowners to develop new irrigation. The Conservation District Bureau utilizes just over half of the available general fund to assist Montana conservation and grazing districts. The remaining program funding includes miscellaneous state special revenue, federal drinking water and water pollution control funds, and miscellaneous federal sources used to supplement division activities.

Figure 11		
Conservation and Resource Development Division		
Funding by Function		
Source	Type	Activity
Coal Tax	State Special	Conservation Districts
Fees	State Special	Grazing Commissin
TSEP	State Special	Regional Water System Activities
General Fund	General Fund	Crow Trib Settlement
		Conservation Districts
Drinking water Funds	State & Federal	Drinking Water loan Program
Reclamation & Development	State Special	RDGLP Administration
Renewable Resources	State Special	RRGP Administration

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
-----Fiscal 2006-----						-----Fiscal 2007-----				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				27,085					29,321	
Vacancy Savings				(48,342)					(48,428)	
Inflation/Deflation				(5,234)					(5,152)	
Fixed Costs				11,656					11,605	
Total Statewide Present Law Adjustments				(\$14,835)					(\$12,654)	
DP 2301 - CARDD Regional Water Coordinator	1.00	0	47,664	0	47,664	1.00	0	47,562	0	47,562
DP 2302 - CARDD Operating Adjustment	0.00	2,000	36,000	14,000	52,000	0.00	2,000	36,000	20,000	58,000
DP 2303 - Regional Water Systems	0.00	0	27,000	0	27,000	0.00	0	33,000	0	33,000
DP 2310 - Grazing District Commission-Biennial	0.00	0	84,000	0	84,000	0.00	0	0	0	0
DP 2312 - Crow Tribe Settlement - OTO	0.00	4,500,000	0	0	4,500,000	0.00	4,500,000	0	0	4,500,000
DP 2313 - Crow Tribe Settlement Adjustment	0.00	(1,000,000)	0	0	(1,000,000)	0.00	(1,000,000)	0	0	(1,000,000)
DP 2314 - Conservation Districts Financial Assistance-BI	0.00	0	95,431	0	95,431	0.00	0	0	0	0
Total Other Present Law Adjustments										
1.00	\$3,502,000	\$290,095	\$14,000	\$3,806,095	1.00	\$3,502,000	\$116,562	\$20,000	\$3,638,562	
Grand Total All Present Law Adjustments				\$3,791,260					\$3,625,908	

DP 2301 - CARDD Regional Water Coordinator - The executive requests funding to support the modified FTE currently serving as the Regional Water Coordinator. This position coordinates the regional water system projects in the State of Montana from the state's perspective, coordinating between DNRC, DEQ, MDOT, other state agencies and federal agencies.

LFD COMMENT

The Regional Water Coordinator manages state agency activities and their interaction with the four large regional water systems currently under construction, Dry Prairie, Dry Red Water, Musselshell Valley, and North Central Montana regional system. The concept of a Regional Water Coordinator was first approved by the 2001 legislature in a one-time-only appropriation with FTE attached in the 2003 legislature. The funding was again approved, but the FTE was not. Due to the 2003 appropriation, the FTE became modified and therefore was not included in the division's base budget. This decision package moves the cost of the FTE into the division's base budget. The position would be funded by treasure state endowment program regional water system funds, which are derived from a portion of the interest earned on the coal severance permanent trust.

DP 2302 - CARDD Operating Adjustment - Due to workload increases in the revolving fund loan programs, the executive is requesting a base adjustment for: 1) \$13,500 in FY2006 and \$16,500 in FY2007 for rent increases in non-state owned buildings in Helena, Billings and Miles City; 2) \$30,000 in FY2006 and \$33,000 in FY 2007 to annualize increases in contract services to provide support for grant and loan programs; and 3) \$8,200 each year of the biennium for increase travel and supplies.

DP 2303 - Regional Water Systems - The executive is requesting an adjustment to annualize the contracted services costs related to the continued development of Dry Prairie (\$6,000 each year), Dry Red Water (\$9,000 each year), and the North Central Regional Water System (\$12,000 and \$18,000). Funding would be provided by the treasure state endowment program regional water system funds, which are derived from a portion of the interest earned on the coal severance permanent trust.

LFD COMMENT

The treasure state endowment regional water funds provide administrative costs to the state and local entities associated with regional water systems in order to provide the opportunity for state and local collaboration on these large drinking water projects.

DP 2310 - Grazing District Commission-Biennial - The executive budget includes a request to restore the Grazing District Commission to the 2004 appropriated base. The commission anticipates increased costs for its contract executive director position and operations. Substantial increased contract legal services for matters affecting the commission or the operation of grazing districts are anticipated in the next biennium.

LFD ISSUE

The Montana Grass Conservation Commission is directed under Title 76, Chapter 16, MCA to supervise the formation and operation of state grazing districts. The commission is funded through grazing district fees collected from members of the state grazing districts. The fee is imposed by the commission in an amount not in excess of 10-cents per animal unit month of grazing preference, based upon the number of animal units per year for which the state district grants permits. The current fee is set at 3-cents per animal unit.

The revenue from the grazing fee has not kept pace with the expenses of the commission. The 2003 Legislature approved a biennial appropriation of \$80,000 for the commission and approved \$28,043 of division base expenditures from the same revenue source. The fund balance at the beginning of the 2005 biennium was \$4,607. Revenue to the fund in FY 2004 totaled \$23,300 and expenditures were \$37,956, creating a 2004 fiscal year end balance of negative \$ 10,049. All expenditures were related to commission activities. As illustrated by Figure 12, the commission has been in a negative cash position since FY 2002.

This decision package seeks to re-instate the 2004 base and provide another biennial appropriation. The commission either has no intention of expending these funds, as demonstrated by FY 2004 expenditures, or the commission will raise fees to increase revenues. As presented, the decision package is not structurally balanced. The fund has a negative cash balance, potential revenue of \$46,000 in the biennium, and an appropriation of \$84,000 is being requested. The legislature may wish to consider the following options when examining the decision package:

- Reduce total appropriations to projected fund revenues
- Direct the commission to raise fees to meet projected expenditures
- Approve the decision package

Figure 12
Grazing Commission
Historical Revenues and Disbursement

Fiscal Year	Revenues	Disbursements	Difference
2007*	\$20,000	\$40,456	(\$20,456)
2006*	20,000	124,456	(104,456)
2005*	20,000	67,587	(47,587)
2004	23,300	40,456	(17,156)
2003	23,052	23,192	(140)
2002	22,661	27,305	(4,644)
2001	21,143	21,030	113
2000	22,382	19,245	3,137

DP 2312 - Crow Tribe Settlement - OTO - The executive is requesting a \$7 million present law adjustment to fulfill the state's obligation to the Crow Tribe. The June 1999 Special Session of the Montana Legislature approved the water rights and coal severance tax litigation settlement of \$15 million with the Crow Tribe. The state has paid \$6 million of this obligation to date. This request of \$7 million, combined with \$2 million currently in the department base budget, would fulfill the state's financial obligation under this settlement.

**LFD
COMMENT**

The Governor is proposing to use some of the one-time general fund revenues from the 2005 biennium that will not be collected during the 2007 biennium to pay off this obligation. The state will not realize any savings by paying off this debt early.

DP 2313 - Crow Tribe Settlement Adjustment - The current base budget for the division contains \$1 million each year in ongoing general fund support to pay for the Crow Tribe Settlement. This adjustment removes the funding from the base, as it is included in DP 2312 as one-time-only funds.

DP 2314 - Conservation Districts Financial Assistance-BI - The executive requests a \$95,431 biennial appropriation from shared coal severance tax for conservation district grants administrative support. This proposal would increase the department's conservation district administrative grant program by \$50,000 for the biennium and increase the conservation district grant program for projects and activities by \$45,431.

**LFD
COMMENT**

The shared coal severance tax fund provides funding for conservation districts, the state library commission, the agriculture development council, and the coal board. Figure 13 represents the impact of the multiple agency requests from this fund. Any unobligated balance remaining in this account at fiscal year end is transferred to the general fund. The 2007 biennium transfer amount is estimated at \$84,000.

Figure 13
Coal Tax Shared Revenue Account
2007 Biennium

Component**	FY 2006	FY 2007	Biennium
<u>Revenues</u>			
7.75 percent of Coal Tax Revenues	\$2,449,155	\$2,500,770	\$4,949,925
<u>Expenditures</u>			
Commerce - Coal Board*/County Planning	\$1,655,916	\$88,249	\$1,744,165
Montana State Library - Statewide Library Resources	403,741	403,742	807,483
DNRC - Conservation Districts/Centralized Services	727,563	632,132	1,359,695
Agriculture - Growth Through Ag	<u>477,405</u>	<u>477,252</u>	<u>954,657</u>
Total	<u>\$3,264,625</u>	<u>\$1,601,375</u>	<u>\$4,866,000</u>
Biennial Difference - Transferred to the General Fund			<u>\$83,925</u>

*Coal Board grants are biennial.

**Revenues are as estimated by the Revenue and Transportation Committee

Expenditures are as requested in the executive budget

December 13, 2004

New Proposals

Fiscal 2006						Fiscal 2007				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 2304 - MT Drinking Water Loan Program										
23	0.00	0	250,000	0	250,000	0.00	0	250,000	0	250,000
DP 2305 - Musselshell Valley Regional Water Project										
23	0.00	0	105,000	0	105,000	0.00	0	102,000	0	102,000
DP 2306 - Move Funding Between State Special Revenue Funds										
23	0.00	0	0	0	0	0.00	0	0	0	0
Total	0.00	\$0	\$355,000	\$0	\$355,000	0.00	\$0	\$352,000	\$0	\$352,000

DP 2304 - MT Drinking Water Loan Program - The executive is proposing expansion of the State Revolving Fund Drinking Water Program to match the federal program authority for the Safe Drinking Water program. This program provides funds for training, technical assistance, and the issuance of low interest loans to local governmental entities to finance drinking water facilities and implement the Safe Drinking Water Act. Funding for the expansion would come from the drinking water investment account, which is funded by income derived from the investments of the drinking water revolving fund.

DP 2305 - Musselshell Valley Regional Water Project - The executive is requesting authority for the development of the Musselshell Valley Regional Water Project. Funding would cover the administrative expenses associated with maintaining local support and negotiating agreements to work on engineering and environmental planning for the regional water system. This system would facilitate the construction of a regional water system for 5 small communities in the Musselshell Valley area. The service area includes Fergus, Judith Basin, Wheatland, Golden Valley, Yellowstone, and Musselshell counties and will serve up to 5,000 in population. Funding would be provided by the treasure state endowment program regional water system funds, which are derived from a portion of the interest earned on the coal severance permanent trust.

**LFD
COMMENT**

The treasure state endowment regional water funds provide administrative costs to the state and local entities associated with regional water systems to provide the opportunity for state and local collaboration on large drinking water projects.

DP 2306 - Move Funding Between State Special Revenue Funds - This decision package moves funding in the Conservation District Bureau and the Resource Development Bureau from the Renewable Resources fund to the Reclamation and Development fund. The services provided by these bureaus are appropriately funded by either of these funds. The movement is based upon balancing expenditures with available revenues.

**LFD
ISSUE**

This decision package illustrates the on-going issue with the resource indemnity trust related accounts. The department is moving funds to establish cash flow from the account that has sufficient resources to cover anticipated costs.

Please see the agency-wide discussion regarding the resource indemnity trust and related accounts.

Language

"The department is appropriated up to \$600,000 for the 2005 biennium from the state special revenue account established in 85-1-604 for the purchase of prior liens on property held as loan security as required by 85-1-618". This has been established in the last three biennia. This amount is for the biennium.

"The department is authorized to decrease Federal special revenue money in the Pollution Control and/or Drinking Water Revolving Fund Loan programs and increase state special revenue money by a like amount within the Special Administration Account when the amount if federal EPA CAP funds have been expended or federal funds and bond proceeds will be used for other program purposes."

Program Proposed Budget

The following table summarizes the executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2004	PL Base Adjustment Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	PL Base Adjustment Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Exec. Budget Fiscal 06-07
FTE	109.50	0.00	0.00	109.50	0.00	0.00	109.50	109.50
Personal Services	5,252,169	365,896	0	5,618,065	370,736	0	5,622,905	11,240,970
Operating Expenses	1,768,414	793,206	71,856	2,633,476	(1,102)	89,556	1,856,868	4,490,344
Equipment	5,772	28,500	36,695	70,967	0	0	5,772	76,739
Capital Outlay	75	0	0	75	0	0	75	150
Local Assistance	0	0	0	0	0	0	0	0
Debt Service	389,042	80,702	0	469,744	80,702	0	469,744	939,488
Total Costs	\$7,415,472	\$1,268,304	\$108,551	\$8,792,327	\$450,336	\$89,556	\$7,955,364	\$16,747,691
General Fund	5,866,304	320,952	0	6,187,256	327,098	0	6,193,402	12,380,658
State/Other Special	1,464,378	939,369	108,551	2,512,298	114,922	89,556	1,668,856	4,181,154
Federal Special	84,790	7,983	0	92,773	8,316	0	93,106	185,879
Total Funds	\$7,415,472	\$1,268,304	\$108,551	\$8,792,327	\$450,336	\$89,556	\$7,955,364	\$16,747,691

Program Description

The Water Resources Division is responsible for many programs associated with the uses, development, and protection of Montana's water. It manages and maintains the state-owned dams, reservoirs, and canals. The division also develops and recommends in-state, interstate, and international water policy to the director, Governor, and Legislature. The division consists of an administration unit and four bureaus: Water Management Bureau, Water Rights Bureau, State Water Projects Bureau, and the Water Operations Bureau.

Program Highlights

Water Resource Division Major Highlights	
<ul style="list-style-type: none"> The executive is requesting authority to provide pre-construction and rehabilitation funding for four high-risk dams, totaling \$743,600 over the biennium The executive budget includes a request to transfer water rights information from microfilm to optical imaging 	
Major LFD Issues	
<ul style="list-style-type: none"> The water rights optical imaging project will require funding beyond the initial project start up costs The outcome of water rights adjudication legislation could change the structure of the division's budget and activities 	

Funding

The following table shows program funding, by source, for the base year and for the 2007 biennium as recommend by the Governor.

Program Funding Table Water Resources Division						
Program Funding	Base FY 2004	% of Base FY 2004	Budget FY 2006	% of Budget FY 2006	Budget FY 2007	% of Budget FY 2007
01100 General Fund	\$ 5,866,304	79.1%	\$ 6,187,256	70.4%	\$ 6,193,402	77.9%
02104 Miscellaneous State Spec Rev	227,504	3.1%	308,206	3.5%	308,206	3.9%
02145 Broadwater O & M	302,915	4.1%	365,071	4.2%	333,239	4.2%
02177 Cst 90 A Fisheries Mitigation	-	-	54,000	0.6%	-	-
02216 Water Storage St Sp Rev Acct	-	-	544,600	6.2%	-	-
02272 Renewable Resources Grnt/Loans	16,868	0.2%	8,001	0.1%	8,001	0.1%
02351 Water Project Lands Lease Acct	8,642	0.1%	8,553	0.1%	8,557	0.1%
02409 General License	15,658	0.2%	73,607	0.8%	73,563	0.9%
02430 Water Right Appropriation	519,852	7.0%	660,506	7.5%	641,783	8.1%
02458 Reclamation & Development	145,720	2.0%	48,453	0.6%	53,493	0.7%
02470 State Project Hydro Earnings	161,538	2.2%	360,538	4.1%	161,538	2.0%
02825 Water Well Contractors	65,681	0.9%	80,763	0.9%	80,476	1.0%
03034 Yellowstone Groundwater Nps	22,999	0.3%	22,999	0.3%	22,999	0.3%
03094 Fema Federal Grants	61,554	0.8%	69,774	0.8%	70,107	0.9%
03308 Water Resources - Federal	237	0.0%	-	-	-	-
Grand Total	<u>\$ 7,415,472</u>	<u>100.0%</u>	<u>\$ 8,792,327</u>	<u>100.0%</u>	<u>\$ 7,955,364</u>	<u>100.0%</u>

The Water Resource Division is predominantly funded with general fund (79.1 percent), state special revenue (22.1 percent), and a minor amount of federal revenue. Sources and purpose of state special revenue include:

- Water storage account funded by direct allocation of RIT interest and revenue from water purchase contracts for the purpose of construction, operation, maintenance and rehabilitation of state water storage projects
- Water rights fees derived from fees collected to record rights to support water rights management
- Income derived from state owned hydroelectric projects for repair and rehabilitation of state owned water projects
- General license account dollars for fisheries mitigation work
- Fees from water well contractors support the Board of Water Well Contractors

Federal funds are from Federal Emergency Management Agency (FEMA) grants and the Bureau of Reclamation.

LFD ISSUE

RIT accounts in this division are Renewable Resources, Water Storage, and Reclamation and Development. Please see the agency-wide issue regarding the Resource Indemnity Trust.

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
-----Fiscal 2006-----					-----Fiscal 2007-----				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				599,143					604,190
Vacancy Savings				(234,047)					(234,254)
Inflation/Deflation				(18,472)					(17,855)
Fixed Costs				24,638					38,790
Total Statewide Present Law Adjustments				\$371,262					\$390,871
DP 2402 - Water Resources Operating Adjustments									
0.00	78,531	91,485	0	170,016	0.00	66,541	90,498	0	157,039
DP 2403 - Rehab of N. Fork of Smith Dam and Nilan North Dam									
0.00	0	330,000	0	330,000	0.00	0	0	0	0
DP 2404 - Broadwater Power Project-FERC Fisheries Mitigation									
0.00	0	86,000	0	86,000	0.00	0	0	0	0
DP 2405 - Water Projects Pre-construction Engineering									
0.00	0	413,600	0	413,600	0.00	0	0	0	0
DP 2406 - Water Well Contractors Litigation & PerDiem-RST-OT									
0.00	0	16,800	0	16,800	0.00	0	16,800	0	16,800
DP 2407 - FBC Operating Budget									
0.00	0	(119,374)	0	(119,374)	0.00	0	(114,374)	0	(114,374)
Total Other Present Law Adjustments									
0.00	\$78,531	\$818,511	\$0	\$897,042	0.00	\$66,541	(\$7,076)	\$0	\$59,465
Grand Total All Present Law Adjustments				\$1,268,304					\$450,336

DP 2402 - Water Resources Operating Adjustments - The executive requests \$75,531 general fund and \$91,485 state special revenue for FY 2006 and \$66,541 general fund and \$90,498 state special revenue for FY 2007 for operating adjustments. Over the biennium this would include; 1) \$28,500 for server and database equipment replacement, 2) \$67,620 for contracted services including participation in the USGS cooperative stream gauging program and records management; 3) \$46,950 for leased vehicles; 4) \$23,961 in rent adjustments for non-state owned buildings in Kalispell, Missoula and Bozeman, and 5) debt service for repayment of a federal loan for rehabilitation on the middle creek dam of \$161,404.

DP 2403 - Rehab of N. Fork of Smith Dam and Nilan North Dam - The executive budget includes a request of \$330,000 for the restoration of one-time-only, restricted biennial state special revenue funds authorized by the 2003 legislature for the North Fork of Smith Dam and Nilan North Dam projects. Final design and construction was delayed as the new spillway standards for high hazard dams were not completed.

- The North Fork of the Smith Dam, built in 1936, is 84 feet high and 1300 feet long. The earthen embankment is classified as high hazard, which means there may be loss of life if the dam were to fail. The department has a Renewable Resource Grant in the amount of \$100,000 and a loan in the amount of \$425,000 for the Project. The additional funding of \$260,000 for the Project is requested as a biennial appropriation and would come from the Water Storage Account.
- The Nilan North Dam was constructed in 1952, and is classified as high hazard. The reservoir provides 10,090 acre-feet of irrigation water to the Nilan Water Users' Association, and is a popular recreation area. The project would repair the outlet structure at the North Dam. There is also a considerable amount of seepage that exits in the location of the outlet. The funding of \$70,000 for the project would be used to pay the rehabilitation construction costs, and is requested as a biennial appropriation from the Water Storage Account.

LFD COMMENT

The executive is requesting a biennial appropriation. The legislature may wish to consider adding one-time-only and/or restricted designations as the work should be completed within the 2007 biennium.

DP 2404 - Broadwater Power Project-FERC Fisheries Mitigation - The executive requests a biennial appropriation of \$86,000 in state special revenue to fund fisheries mitigation work required by the Federal Energy Regulatory Commission (FERC) licenses. If approved the funds would be used to contract with the Department of Fish, Wildlife and Parks (DFWP) to perform annual fish population studies and evaluation of completed habitat improvement projects to mitigate impacts from the construction of the Broadwater Hydropower Plant. State special revenue for fisheries mitigation and Broadwater operations and maintenance would fund this proposal

DP 2405 - Water Projects Pre-construction Engineering - The executive is requesting a one-time-only, biennial appropriation of \$413,600 in state special revenue for land surveying services and pre-construction engineering on two projects in need of major rehabilitation. Funds of \$388,600 would be used to contract with private engineering firms to complete the pre-construction engineering on two state owned high hazard dams, the Ruby Dam and the Painted Rock Dam. The engineering would establish the basis for funding and carrying out the actual rehabilitation construction stage. The additional \$25,000 would be used to cover retainer fees for land surveying services conducted during the course of construction/rehabilitation activities on state-owned dams, canals, and lands scheduled for sale or exchange.

**LFD
COMMENT**

Rehabilitation is accomplished in two major stages, the first is pre-construction engineering and the second is final engineering design and construction. This decision package does not cover the cost of the rehabilitation. Appropriation for repairs will need to be made by the 2007 legislature based on the outcomes of the work associated with this decision package.

DP 2406 - Water Well Contractors Litigation & PerDiem-RST-OT - The executive is seeking an increase in Authority of \$33,600 in state special revenue for increases contracted legal and other litigation costs of the Board of Water Well Contractors. Bond revenues from contractors are not available prior to incurring these costs. The balance of the request is for increased travel and per diem costs for the non-government representatives of the board. Fees from water well contractors support this activity.

DP 2407 - FBC Operating Budget - The Flathead Basin Commission (FBC) is charged to protect the natural resources and environment of the Flathead Basin. The commission was administratively attached to the department by the 2003 legislature. The executive is requesting a reduction in the amount of \$119,374 in FY 2006 and \$ 114,374 in FY 2007 to reflect operational changes.

**LFD
ISSUE**

The 2003 legislature transferred the Flathead Basin Commission (FBC) to the department temporarily. Statute (2-15-213, MCA) supporting this transfer terminates on June 30, 2005. If legislation to extend the termination date does not pass, the commission would be transferred back to the Governor's Office. FY 2004 base expenditures were \$41,656. The legislature may wish to make this decision package contingent upon the approval of that legislation.

The Flathead Basin Commission is supported with funding from the reclamation and development account and the renewable resources account funded with Resource Indemnity Trust interest. Please see the agency-wide issue on the Trust.

New Proposals

New Proposals										
Program	FTE	Fiscal 2006				FTE	Fiscal 2007			
		General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special	Total Funds
DP 2408 - Water Right Records Optical Imaging-OTO										
24	0.00	0	108,551	0	108,551	0.00	0	89,556	0	89,556
Total	0.00	\$0	\$108,551	\$0	\$108,551	0.00	\$0	\$89,556	\$0	\$89,556

DP 2408 - Water Right Records Optical Imaging-OTO - The executive is requesting \$198,107 in state special revenue to replace the microfilm system with an optical imaging system to capture water right information consisting of 350,000 plus files and over six million images. This system would transfer the information from read only microfilm system to Internet accessible files linked with the water rights database. This proposal would fund scanning equipment, software, digital storage, and temporary employees to complete the scanning process. This process would take four years to complete.

**LFD
ISSUE**

The water rights database is an integral part of the water rights adjudication process. Major legislation regarding the funding of the adjudication project will be introduced this session. Please see the agency-wide issue on the water adjudication process.

The executive has requested a one-time-only (OTO) designation on a project that is expected to take four years. The project will rise in costs in the second two years of the project, due to increases in digital storage and software upgrades. As with microfilm, digital storage does have continuing costs beyond the initial work of scanning the documents into the system. Should the legislature accept this decision package, future funding will be required to keep this project viable.

Because difficulties in this project could impact the entire water adjudication indirectly, the legislature may also wish to require the department to provide an update to the Environmental Quality Council on the progress and expenses related to the transition from microfilm to digital imaging of water rights records and related images.

Language

The Water Resources Division requires three language appropriations:

- 1) During the 2007 biennium, up to \$1 million of funds currently in or to be deposited in the Broadwater replacement and renewal account is appropriated to the department for repairing or replacing equipment at the Broadwater hydropower facility.
- 2) During the 2007 biennium, up to \$70,000 of interest earned on the Broadwater water users account is appropriated to the department for the purpose of repair, improvement, or rehabilitation of the Broadwater-Missouri diversion project.
- 3) During the 2007 biennium, up to \$500,000 of funds currently in or to be deposited in the state project hydropower earnings account is appropriated for the purpose of repairing, improving, or rehabilitating department state water projects.

Program Proposed Budget

The following table summarizes the executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2004	PL Base Adjustment Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	PL Base Adjustment Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Exec. Budget Fiscal 06-07
FTE	9.00	0.00	0.00	9.00	0.00	0.00	9.00	9.00
Personal Services	530,733	27,891	0	558,624	27,705	0	558,438	1,117,062
Operating Expenses	133,717	(2,004)	0	131,713	(734)	0	132,983	264,696
Total Costs	\$664,450	\$25,887	\$0	\$690,337	\$26,971	\$0	\$691,421	\$1,381,758
General Fund	664,450	25,887	0	690,337	26,971	0	691,421	1,381,758
Total Funds	\$664,450	\$25,887	\$0	\$690,337	\$26,971	\$0	\$691,421	\$1,381,758

Program Description

The Montana Reserved Water Rights Compact Commission was created by the Legislature in 1979 as part of the statewide water rights adjudication effort. It consists of four members appointed by the Governor, two by the President of the Senate, two by the Speaker of the House of Representatives, and one by the Attorney General. Members serve for four years. The commission negotiates water rights with the Indian tribes and federal agencies, which claim federal reserved water rights within the state, to establish a formal agreement (compact) on the amount of water to be allocated to each interest. Legal, technical, and administrative staff supports the commission.

Program Highlights

Reserved Water Rights Compact Commission Major Program Highlights	
<ul style="list-style-type: none"> The budget increase is attributed to the statewide adjustments and miscellaneous operating expenses 	

Funding

The following table shows program funding, by source, for the base year and for the 2007 biennium as recommend by the Governor.

Program Funding Table Reserved Water Rights Co						
Program Funding	Base FY 2004	% of Base FY 2004	Budget FY 2006	% of Budget FY 2006	Budget FY 2007	% of Budget FY 2007
01100 General Fund	\$ 664,450	100.0%	\$ 690,337	100.0%	\$ 691,421	100.0%
Grand Total	\$ 664,450	100.0%	\$ 690,337	100.0%	\$ 691,421	100.0%

The commission is funded exclusively with state general fund.

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
-----Fiscal 2006-----					-----Fiscal 2007-----					
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				46,134						45,940
Vacancy Savings				(23,073)						(23,065)
Inflation/Deflation				(231)						(181)
Fixed Costs				(4,343)						(4,352)
Total Statewide Present Law Adjustments				\$18,487						\$18,342
DP 2501 - Reserved Water Rights Compact Commission Operating	0.00	7,400	0	0	7,400	0.00	8,629	0	0	8,629
Total Other Present Law Adjustments	0.00	\$7,400	\$0	\$0	\$7,400	0.00	\$8,629	\$0	\$0	\$8,629
Grand Total All Present Law Adjustments				\$25,887						\$26,971

DP 2501 - Reserved Water Rights Compact Commission Operating - The executive is requesting a present law adjustment to annualize the increase in rent and janitorial services. The adjustment also restores travel and per diem for the nine commission members.

Program Proposed Budget

The following table summarizes the executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2004	PL Base Adjustment Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	PL Base Adjustment Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Exec. Budget Fiscal 06-07
FTE	288.74	2.00	0.00	290.74	2.00	0.00	290.74	290.74
Personal Services	12,018,161	1,445,744	0	13,463,905	1,462,586	0	13,480,747	26,944,652
Operating Expenses	6,015,214	382,605	35,180	6,432,999	417,422	35,180	6,467,816	12,900,815
Equipment	599,324	16,000	0	615,324	0	0	599,324	1,214,648
Capital Outlay	0	0	0	0	0	0	0	0
Grants	37,243	0	0	37,243	0	0	37,243	74,486
Transfers	398,339	353,117	0	751,456	154,762	0	553,101	1,304,557
Debt Service	17,646	0	0	17,646	0	0	17,646	35,292
Total Costs	\$19,085,927	\$2,197,466	\$35,180	\$21,318,573	\$2,034,770	\$35,180	\$21,155,877	\$42,474,450
General Fund	6,158,738	815,529	21,108	6,995,375	633,845	21,108	6,813,691	13,809,066
State/Other Special	11,625,982	1,138,313	11,609	12,775,904	1,155,462	11,609	12,793,053	25,568,957
Federal Special	1,301,207	243,624	2,463	1,547,294	245,463	2,463	1,549,133	3,096,427
Total Funds	\$19,085,927	\$2,197,466	\$35,180	\$21,318,573	\$2,034,770	\$35,180	\$21,155,877	\$42,474,450

Program Description*Forestry*

The Forestry Division is responsible for planning and implementing forestry programs statewide. Forestry responsibilities include protecting natural resources from wildfire, regulating forest practices, and providing a variety of services to private forest landowners. Specific programs include:

- Fire and Aviation Management - Protecting 50 million acres of state and private forest and watershed lands from wildfire through a combination of direct protection and county support
- Forest Practice Regulation - Enforcing Montana's streamside management zone regulations and monitoring the voluntary best management practices program on all forests in Montana
- Administering Montana Fire Hazard Reduction Law - Ensuring that the fire hazard created by logging and other forest management operations on private forest lands is adequately reduced, or that additional fire protection is provided until the hazard is reduced
- Providing Forestry Services - Providing technical forestry assistance to private landowners, businesses and communities
- Tree and Shrub Nursery - Growing and selling seedlings for conservation and reforestation plantings on state and private lands in Montana

Trust Land Management

The Trust Land Management Division is responsible for managing Montana's trust land resources to provide revenues for the trust beneficiaries while considering environmental factors and protecting future income generating capacity of the land. The division provides this through four primary programs: forest management, agriculture and grazing management, special use management and minerals management

Program Highlights

Forestry and Trust Land Management Divisions Major Budget Highlights	
<ul style="list-style-type: none"> • The executive is seeking funding for an additional 2 FTE to hire foresters to assist in meeting the workload related to the increase in timber harvest on state lands • Executive is seeking authority to build a fifth helicopter for department use • Seasonal fire pay exceptions are being requested • Statewide adjustments contribute to budget increases • No rate increase is being sought for the air operations program 	
Major LFD Issues	
<ul style="list-style-type: none"> • The nursery program could be tracked with a proprietary account • Seasonal fire pay could be made permanent 	

Funding

The following table shows program funding, by source, for the base year and for the 2007 biennium as recommend by the Governor.

Program Funding Table Forestry/Trust Lands						
Program Funding	Base FY 2004	% of Base FY 2004	Budget FY 2006	% of Budget FY 2006	Budget FY 2007	% of Budget FY 2007
01100 General Fund	\$ 6,158,738	32.3%	\$ 6,995,375	32.8%	\$ 6,813,691	32.2%
02031 Forest Resources - Nursery	372,726	2.0%	446,321	2.1%	455,273	2.2%
02039 Forestry-Fire Protection Taxes	2,335,114	12.2%	2,614,847	12.3%	2,616,783	12.4%
02073 Forestry - Slash Disposal	106,269	0.6%	139,035	0.7%	139,069	0.7%
02241 Dsl Recreational Use Account	70,273	0.4%	88,273	0.4%	88,273	0.4%
02280 Forest Resources-Timber Sales	3,021,755	15.8%	3,288,471	15.4%	3,293,449	15.6%
02324 State Land Bank	-	-	153,000	0.7%	153,000	0.7%
02449 Forest Resources-Forest Improv	1,551,189	8.1%	1,571,303	7.4%	1,571,918	7.4%
02450 State Lands Res Dev	496,124	2.6%	496,124	2.3%	496,124	2.3%
02681 Historic Right-Of-Way Acct	5,000	0.0%	5,000	0.0%	5,000	0.0%
02836 Commercial Leases - Tlmd	-	-	30,000	0.1%	32,000	0.2%
02938 Tlmd - Administration	3,667,532	19.2%	3,943,530	18.5%	3,942,164	18.6%
03068 Forest Resources-Fire	759,071	4.0%	984,857	4.6%	985,149	4.7%
03069 Forest Resources - Pfa	542,136	2.8%	562,437	2.6%	563,984	2.7%
Grand Total	<u>\$ 19,085,927</u>	<u>100.0%</u>	<u>\$ 21,318,573</u>	<u>100.0%</u>	<u>\$ 21,155,877</u>	<u>100.0%</u>

The Forestry Division is supported with a mix of general fund, state special revenue, and federal funding. General fund provides general division support as well as the fixed costs of the Fire and Aviation Management program. A transfer from the general fund is made to the proprietary fund, from which it is spent.

State special revenue from the sale of nursery stock and forest improvement fees is used to support the nursery. The land board approves the variable forest improvement fee when timber sales are approved based upon the state's projected costs of slash disposal, road maintenance, and reforestation. Fees consist of \$25 for each slash hazard reduction agreement, and \$.060 per thousand board feet sold, plus any forfeited fire hazard reduction bonds.

The department is also required to collect up to one-third of the state's fire protection appropriation from private landowners. The other two-thirds is funded with general fund and federal funds. The department is required to levy the tax so that collections equal the amount appropriated by the legislature.

The Trust Land Management division is funded with trust fund revenue, timber sales, and forest resource fees. The remaining funding is from recreational use and resource development of state lands. Because funding for state lands is taken directly from revenues, any expenditures for administration of state lands is a direct reduction in trust income. General fund is utilized for personal services for the management of non-trust state lands.

**LFD
COMMENT**

The constitutionality of this methodology for funding trust lands management has been questioned. Please see the agency- wide issue on funding trust land management administration.

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
-----Fiscal 2006-----						-----Fiscal 2007-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					1,720,709					1,738,420
Vacancy Savings					(549,553)					(550,264)
Inflation/Deflation					(41,825)					(41,089)
Fixed Costs					87,857					118,728
Total Statewide Present Law Adjustments					\$1,217,188					\$1,265,795
DP 3502 - Fire Seasonal Pay Exception	0.00	0	66,000	134,000	200,000	0.00	0	66,000	134,000	200,000
DP 3503 - Forestry Operating Adjustment	0.00	106,657	109,813	30,673	247,143	0.00	107,743	118,951	30,668	257,362
DP 3506 - Build additional UH-1 Helicopter-OTO	0.00	200,000	0	0	200,000	0.00	0	0	0	0
DP 3521 - Trust Land Management Operating Adjustment	0.00	0	11,544	0	11,544	0.00	0	14,183	0	14,183
DP 3522 - Trust Lands Recreational Use	0.00	0	18,000	0	18,000	0.00	0	18,000	0	18,000
DP 3523 - Trust Land Commercial Leasing	0.00	0	30,000	0	30,000	0.00	0	32,000	0	32,000
DP 3524 - Trust Land Banking	0.00	0	153,000	0	153,000	0.00	0	153,000	0	153,000
DP 3525 - Trust Land Road Maintenance	0.00	0	30,000	0	30,000	0.00	0	30,000	0	30,000
DP 3526 - Trust Land Replacement Equipment-OTO	0.00	0	16,000	0	16,000	0.00	0	0	0	0
DP 3527 - Forest Management Sustained Yield FTE	2.00	0	74,588	0	74,588	2.00	0	74,430	0	74,430
Total Other Present Law Adjustments										
	2.00	\$306,657	\$508,945	\$164,673	\$980,275	2.00	\$107,743	\$506,564	\$164,668	\$778,975
Grand Total All Present Law Adjustments					\$2,197,463					\$2,044,770

* Note: Inflation/Deflation and Fixed Costs were adjusted by program, but do not total correctly. Total funds in FY 2007 should be \$2,034,770.

DP 3502 - Fire Seasonal Pay Exception - The executive is requesting an extension of the authority granted by the 2003 Legislature to provide a pay exception for DNRC seasonal fire fighters. This proposal would grant the department the ability to offer a pay exception for seasonal firefighters to make a pay matrix similar to that of surrounding states (Idaho Department of Lands and Oregon Department of Forestry) with similar programs.

LFD COMMENT

The pay exception for seasonal fire fighters was originally established through a one-time-only budget adjustment through the Office of Budget and Program Planning in the 2003 biennium. The 2003 Legislature granted a one-time-only authorization for the 2005 biennium to allow the department to continue the pay exception to increase the ability to compete with the seasonal federal jobs and the surrounding states.

This decision package requests that the legislature move this funding into the base to permanently provide the department with the ability to offer a pay exception. Funding for the pay exception would consist of 33 percent state forestry fire protection taxes and 67 percent federal fire resource dollars.

DP 3503 - Forestry Operating Adjustment - The executive is requesting operations adjustments for: 1) \$153,117 in FY 2006 and \$154,762 in FY 2007 in transfer authority to fund rent and aircraft insurance for the department's Fire & Aviation Management program funding provided with general funds and state fire protection taxes; 2) federal fire resources funding authority of \$30,673 in FY 2006 and \$30,668 in FY 2007 to support maintenance and training needs associated with federal assist fires. 3) \$38,753 in FY 2006 and \$47,332 in FY 2007 for increased operating costs within the Nursery due to projected increases in production and sales funded from nursery revenues; 4) \$19,000 in FY2006 and 2007 to provide for increased slash inspections associated with increased logging activity on state and private land funded through slash disposal fees; and 5) \$5,600 in FY 2006 and FY 2007 for rent increases of state offices located outside of the Capitol Complex (Hamilton and Bozeman) funded with general fund.

LFD ISSUE

The Conservation Seedling Nursery produces tree and shrub seedlings for use in various conservation projects. The goal of the program is to produce and distribute, at a nominal cost, quality seedlings for non-ornamental conservation plantings in Montana. The nursery sells to divisions within DNRC, other state agencies, federal agencies, and private landowners. Nursery stock is priced at a level to recover the costs of operating the nursery.

Figure 14 provides an accounting for nursery revenues and expenditures since FY 2000. The nursery has experienced net operating losses in FY 2000, 2002 and 2004 and achieved profits in FY 2001 and FY 2003. Specifically, in FY 2004, the nursery achieved revenues of \$371,014 and paid expenses of \$377,480, for a net operating loss of \$6,466. The nursery fund balance is highest in the spring and lowest in the fall. Because it is part of operations, other funding services could be used to subsidize operations in the years when expenditures exceed revenues. Utilization of a proprietary account would allow the legislature to regularly track revenues and expenditures.

Figure 14 Conservation Seedling Nursery Program Revenues and Expenses					
	FY 2000	FY 2201	FY 2002	FY 2003	FY 2004
Operating Revenues:					
Sale of Nursery Products	\$254,536	\$343,406	\$368,797	\$326,659	\$360,991
Other Operating Revenues	13,446	3,478	12	1,186	10,023
Total Operating Revenue	267,982	346,884	368,809	327,845	371,014
Operating Expenses:					
Personal Services	193,291	235,962	256,146	251,718	270,743
Other Operating Expenses	81,330	97,640	94,887	68,458	106,737
Equipment			38,570		
Debt Service	50	5,135	5,135	5,135	5,135
Total Operating Expenses	274,621	333,602	394,738	320,176	377,480
Operating Income (Loss)	(6,639)	13,282	(25,929)	7,669	(6,466)
60 days of expenses (Total Operating Expenses divided by 6)	\$44,664	\$57,814	\$61,468	\$54,641	\$61,836

**LFD
ISSUE CONT.**

The nursery operates within the Forestry Division, but does not utilize a proprietary fund to track revenues and expenses and provide assurance of working capital. 17-2-102, MCA defines fund structure for state government, which establishes the use of proprietary funds for operations that:

“...are financed and operated in a manner similar to private business enterprises whenever the intent of the legislature is that costs (i.e., expenses, including depreciation) of providing goods or services to the general public on a continuing basis are to be financed or recovered primarily through user charges; [or]...whenever the legislature has decided that periodic determination of revenue earned, expenses incurred, or net income is appropriate for capital maintenance, public policy, management control, accountability, or other purposes.”

The nursery is operated in a manner similar to private business,. A proprietary fund would establish a means to track operating costs, revenues, set asides for inventory and equipment, and establish working capital. This fund would provide the legislature with the ability to review the financial position of the nursery program as a whole, rather than as a part of operations.

Option A: Require that the nursery convert to a proprietary account

Option B: Maintain the current fund structure

The issue before the legislature is to determine if the nursery program should be reviewed periodically by the legislature. If so, the legislature may wish to consider accounting for the nursery operations through a proprietary fund.

DP 3506 - Build additional UH-1 Helicopter-OTO - The executive requests funding to build an additional UH-1 helicopter to increase the fire fighting capabilities of the state helicopter fleet. The cost to build the additional UH-1 helicopter is estimated to be \$256,000, based on a FY 2005 project completed in July 2004. Funding would consist of \$200,000 from one-time-only general fund and the utilization of \$56,000 of existing internal service funds to complete the project.

**LFD
COMMENT**

The helicopter completed in July 2004 was funded with \$150,000 of Job and Growth Tax Reconciliation and Relief Act funds from the federal government. The Office of Budget Program and Planning approved the budget amendment to utilize the one-time federal funds. The availability of a fifth helicopter could reduce the amount spent on contract helicopter services for fire suppression. A department owned helicopter costs approximately \$197,000 per year to operate. A one hundred day helicopter contract costs approximately \$967,000. In a year when the department needs additional helicopter services, the availability of this helicopter could save up to \$700,000 in one year. Helicopters are primarily used during fire season where the cost could be borne through a wide variety of federal funding sources or state general fund dependent upon the characteristics of the fire. Building another helicopter with \$200,000 in general fund does not translate to a direct savings of general fund dollars.

DP 3521 - Trust Land Management Operating Adjustment - The executive is requesting an operations adjustment of \$11,544 in FY206 and \$14,183 in FY 2007 for increased rent costs for non-state owned buildings in the Helena, Billings, and Miles City offices.

DP 3522 - Trust Lands Recreational Use - The 2003 Legislature authorized the State Board of Land Commissioners to enter into an agreement with the Department of Fish, Wildlife and Parks to provide for a more efficient and equitable system for licensing recreational use on school trust lands associated with hunting, fishing and trapping. Ten percent of this revenue is earmarked for reducing the impacts of recreation on state lands. The executive is requesting additional spending authority of \$18,000 per year of the biennium for operating costs related to weed management and road maintenance.

DP 3523 - Trust Land Commercial Leasing - The executive is requesting operating authority for the commercial leasing program. The 2003 legislature approved legislation regarding commercial leasing and provided for the department to use up to 10 percent of the annual rent received from commercial leasing to contract with realtors, property managers, surveyors, legal counsel, or lease administrators to administer the commercial leases or provide assistance to the department in the administration of commercial leases. Due to development activities, the program incurred no expenditures in the base year.

**LFD
COMMENT**

The Special Use Management Bureau, Property Management section manages the leasing program including commercial leases. SB 137 in the 2003 Legislature provided clear authority for the issuance of leases for commercial purposes. \$107,385 was generated in commercial leases during FY 2004. Significant program growth needs to occur to reach the \$300,000 level anticipated by the department. Please see agency-wide issue on funding trust land management administration.

DP 3524 - Trust Land Banking - The 2003 Legislature approved authority in FY 2005 to implement the state land-banking program. Land banking provides the department the ability to sell and purchase parcels of state land to increase revenue generating capacity, divest trust holdings, reduce the number of isolated land parcels, increase efficiency in state land management, and protect the corpus of the trust. A portion of the receipts from the sale of trust lands would provide the funding for the transactional costs of buying and selling property. Because the authority was approved in the second year of the biennium, no funds were expended in the base year. The executive is seeking a present law adjustment of \$153,000 in FY 2006 and FY 2007 to establish authority for the 2007 biennium.

**LFD
COMMENT**

\$153,600 was appropriated for this function in FY2005.
Please see the agency-wide issue on funding trust land management administration.

DP 3525 - Trust Land Road Maintenance - The executive is requesting additional spending authority of \$30,000 for each year of the biennium in the forest improvement program to pay for increases in road maintenance and road use in the northwestern and southwestern land offices. Road maintenance and access are part of the existing forest improvement program and are paid for through the collection of forest improvement fees included in timber sales. The department may be required to either compensate the owner for use or to fund road maintenance costs.

DP 3526 - Trust Land Replacement Equipment-OTO - The executive is seeking-one-time-only spending authority of \$16,000 in FY 2006 for the replacement of the phone system at the Stillwater unit of the northwestern land office due to performance and service factors.

DP 3527 - Forest Management Sustained Yield FTE - The executive is requesting funding to support 2.00 FTE to meet the workload of the increased annual sustainable yield on forested state lands. The 2003 Legislature directed the department to conduct a sustained yield study, and the results of that study increased the annual sustainable yield for timber harvest on school trust land from 42 million board feet per year to 53 million board feet per year. The increased revenues from the timber sale would fund this request.

New Proposals

New Proposals		Fiscal 2006				Fiscal 2007				
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 3504 - Interagency Fire Support										
35	0.00	21,108	11,609	2,463	35,180	0.00	21,108	11,609	2,463	35,180
Total	0.00	\$21,108	\$11,609	\$2,463	\$35,180	0.00	\$21,108	\$11,609	\$2,463	\$35,180

DP 3504 - Interagency Fire Support - The executive requests funding to support interagency fire costs within the Northern Rockies region. Currently, the department funds contracted fire protection services on state and private lands within the Flathead Indian Reservation. The request would fund the contract increase of \$5,894 per year. Additionally, the department has also been requested to share support costs associated with the Northern Rockies Coordinating Group (NRCG) of which DNRC is a partner. These costs would be used to support regional Incident Management Teams and an interagency fire contractor position.

Proprietary Rates

Proprietary Program Description

The air operations program in the Forestry Division is funded from the air operations proprietary account for those costs that can be supported by the aircraft rates charged to agencies that use the aircraft and general fund for fixed costs. The program operates four medium helicopters, two light helicopters, and three single engine fixed-wing airplanes. Aircraft are primarily used for fire detection, support and suppression of wildfires, and reclamation work in the Department of Environmental Quality. Fixed costs are paid by the general fund and fire protection tax revenue since they must be paid regardless of number of hours flown. These costs include hangar rent, insurance, and personnel costs. The general fund and fire protection taxes are appropriated by the legislature and transferred to and spent from the proprietary account. Variable costs that are dependent on the hours flown, such as fuel and maintenance, are recovered through an hourly rate charged to all users of the aircraft. Users of the aircraft include the department, other state agencies, federal agencies, and the state's wildfire suppression efforts. This revenue is also deposited to the proprietary account.

Proprietary Revenues and Expenses

The cost drivers for the aircraft rates are the actual expenses needed to maintain the aircraft in an air worthy condition and remain mission ready for the purpose of initial attack on wild fires on state and federal ground. This includes all costs associated with the maintenance and operation of that aircraft. There are some factors that contribute to the uncertainty in forecasting future expenses. This includes unforeseen events such as FAA and manufacturer directives, aircraft incidents resulting in unplanned maintenance and fluctuations in fuel and parts, and length and severity of the fire season.

In FY 2004, non-typical expenditures of \$266,000 were incurred in the building of a new helicopter. A budget amendment was approved to provide \$150,000 in Jobs and Growth Tax Reconciliation and Relief Act funds to offset this expenditure. The balance (\$116,000) was covered with funds from the proprietary account.

Proprietary Rate Explanation

The reimbursement rates for the operation of the department aircraft are based on the time life of 5000 hours of aircraft usage. The rate has been determined to maintain the aircraft in its original condition. At the end of 5000 hours, all parts will have been replaced and a new maintenance / operation cycle started. The customer base is very specific and is made up of department land managers and the U.S. Forest service. The aviation section provides aircraft for fire operations. The aviation section uses this reimbursement rate strictly to maintain the aircraft in flyable condition. The department maintains a high fund balance due to the high price of aircraft parts.

In addition, the FAA and the manufacturer can issue service and technical bulletins that mandate compliance to continue operation of that aircraft. The customer is billed at the fixed rate based on the amount of hours and tenths of hours flown. All costs are direct and fixed with no indirect costs associated with the rates.

The department is not seeking a rate increase for the 2007 biennium.

Actual rates

Bell UH-1H	\$875.00 per hour
Bell Jet Ranger	\$355.00 per hour
Cessna 180 series	\$ 95.00 per hour

2007 Biennium Report on Internal Service and Enterprise Funds 2007

Fund	Fund Name	Agency #	Agency Name	Program Name				
06538	Air Operation Internal Service	5706	Department of Natural Resources and Conservation	Forestry/Trust Lands Division				
			Actual FY02	Actual FY03	Actual FY04	Budgeted FY05	Budgeted FY06	Budgeted FY07
g Revenues:								
ue								
	ue from Bell UH-1Hs		342,475	277,813	403,550	315,000	525,000	525,000
	ue from Bell Jet Rangers		82,431	66,918	120,771	70,000	62,125	62,125
	ue from Cessna 180 Series		20,368	72,852	94,264	75,000	49,875	49,875
	Net Fee Revenue		445,274	417,582	618,585	460,000	637,000	637,000
	ent Earnings		-	-	-	-	-	-
	g Lending Income		-	-	-	-	-	-
	s		-	-	-	-	-	-
	erating Revenues		-	-	412	-	-	-
	Total Operating Revenue		445,274	417,582	618,997	460,000	637,000	637,000
g Expenses:								
	Services		332,916	374,421	365,116	314,456	400,381	402,061
	erating Expenses		551,070	450,556	748,434	568,573	782,254	783,894
	l Operating Expenses		883,986	824,977	1,113,550	883,029	1,182,635	1,185,955
	g Income (Loss)		(438,712)	(407,395)	(494,553)	(423,029)	(545,635)	(548,955)
ating Revenues (Expenses):								
	(s) Sale of Fixed Assets		-	-	-	-	-	-
	ndirect Cost Recoveries		-	-	-	-	-	-
	nonoperating Revenues (Expenses)		-	-	-	-	-	-
	Nonoperating Revenues (Expenses)		-	-	-	-	-	-
	Loss) Before Operating Transfers		(438,712)	(407,395)	(494,553)	(423,029)	(545,635)	(548,955)
	uted Capital		-	-	-	-	-	-
	ing Transfers In (Note 13)		389,169	389,169	436,118	548,339	551,456	553,101
	ing Transfers Out (Note 13)		-	-	-	-	-	-
	ange in net assets		(49,543)	(18,226)	(58,435)	125,310	5,821	4,146
	Assets- July 1 - As Restated		225,230	175,687	157,461	99,026	224,336	230,157
	ood Adjustments		-	-	-	-	-	-
	ve effect of account change		-	-	-	-	-	-
	Assets - July 1 - As Restated		225,230	175,687	157,461	99,026	224,336	230,157
	ts- June 30		175,687	157,461	99,026	224,336	230,157	234,303
f expenses								
	Operating Expenses divided by 6)		147,331	137,496	185,592	147,172	197,106	197,659